

NACIQI Meeting July 27-29, 2021
Day 2 – July 28th
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Candace Evans: Good morning and welcome back to the NACIQI summer meeting. As a quick reminder, please open the chat panel by using the associated icon on the bottom right corner of your screen. If you require assistance at any time during this week's meeting, please send a private chat to the event producer. For optimal viewing, we recommend using grid view, which you can select under the layout menu located just to the left of the participant panel. Agency staff will be moved to the panel during their review. And if you would like, you may share your video. You will also be able to mute and unmute your line at will, but please make sure you remain muted until you are ready to speak. With that, I will turn the conference over to George Alan Smith.

George Alan Smith: Thank you, Candace. Good morning and welcome everyone. This is day two of the meeting of the National Advisory Committee on Institutional Quality and Integrity, also known as NACIQI. My name is George Alan Smith and I'm the Executive Director and Designated Federal Official of NACIQI. As many of you know, NACIQI was established by section 114 of the Higher Education Act of 1969 as amended and is also governed by provisions of the Federal Advisory Committee Act, as amended. It sets forth standards for the formation and use of advisory committees. Sections 101C, and 487C-4 of the ATA and section 86 [inaudible 00:01:25]... Of the Public Health Service Act, 42USC section 2966, require the secretary to publish lists of state approval agencies, nationally recognized accrediting agencies, and state approval and accrediting agencies for programs of nurse education that the secretary determines to be reliable authorities as to the quality of education provided by institutions and programs that they accredit.

Eligibility of educational institutions and programs for participating in the various federal programs requires accreditation by an agency listed by the secretary, that's provided in HEA section 114, NACIQI advises the secretary in the discharge of these functions, and is also authorized to provide advice regarding the process of eligibility and certification of institutions of higher education or participation in the federal student aid programs authorized under Title IV of the HEA.

In addition to these charges, NACIQI authorizes academic graduate degrees from federal agencies and institutions. This authorization was provided by letter from the Office of Management and Budget in 1954. This letter is available on the NACIQI website, along with all other records related to NACIQI's deliberations. Thanks again for joining us today and I'll turn it over to our chairperson Art Keiser.

Arthur Keiser: Thank you, George. Good morning, everybody. It's day two. It certainly was a long day yesterday and an important one. I do want to point out that we do have a quorum, so we will get started. I do want to take a point of personal

privilege to make a couple of comments prior to the meeting. First, I want to thank everybody for the robust discussion that occurred yesterday. That is very important that we do have these kinds of discussions. However, I would like to remind everybody, our role is to be reviewing agencies as it relates to the federal statutes and our particular regulations that we have to deal with. And when we go off in terms of other types of subjects, it gets kind of bogged down and pretty hard for the agencies to follow along and to be able to respond.

We are here to review petitions. We're here to review the staff recommendations and it is very important because one of the things that is such a great part of American peer review, which is what we are here looking at is that there are structures that are due process requirements and we hold the agencies accountable to do what is necessary under the regulations, but no more. We also need to recognize that our staff works extremely hard in reviewing the petitions. They have much more depth of understanding. And when they write that in the report, we need to take into careful consideration their view, what they see, because they are actually doing the interviews. They're actually looking at the commission activities. They're actually involved in commission meetings. So they have a pretty good understanding of what's occurring at these commissions. And we also have to understand that the commission spent a significant time in preparing their petitions, and we need to respect that work that's being done.

We also need to recognize the diversity of the commissions. Not all commissions are the same. Regional commissions or the former regional commissions have a wide variety of institutions from vo-techs to community colleges, to university systems, both private and public. Some are elite, some are not elite. And it's important that we recognize the diversity of these commissions and the fact that sometimes they have a different kind of organizations that they accredit, which have different missions and different responsibilities. It's really important to notice that there are differences between the programmatic, the institutionals both the former regionals and the former nationals. And of course, some of the hybrid we saw yesterday that recognizes both programmatic and institutional recognition.

Finally, we've had a conversation with our counsel, and yesterday there was a whole lot of activity in the chat line between us again in the interest of being transparent, which I know has been a discussion we had in the past at the workshop, it's important that we do not chat with that because that is not public. And the public cannot see those chats. George does have a record of them, and he will somehow get them into the public record because that is necessary. Also when we are emailing each other and sending material back and forth, again, the commissions do not have an opportunity to see that nor does the public. And I would strongly suggest that we limit that in our effort to meet the requirements of FACA.

Finally, I want to thank the staff. I know we're difficult. This is my fourth administration I've served on this committee. We have always been difficult. I

am really proud of the questions that are asked by this group, and I hope the staff recognizes we're here to support you. And we're here to recognize the good work that you do in spite of all the conversations that we have.

So that was my point of personal privilege. I'm now going to go to the standard review procedure's overview and how we go through our review of agencies. First, we will identify the primary readers and they will introduce the agency application. At which point we will then introduce the department staff and that staff provides us a briefing. At which point, we can ask questions from the committee to the staff, then agency representatives provide comments. And then of course we will ask questions led by the primary readers and receive responses from the agency. If there are third-party comments, and in the next one, we will have a third-party commenter that will be heard, that will be limited in time. And then we go... the agencies to respond to the third-party commenters, then the department staff will respond to the agency and to the third-party commenters.

And then finally we will have a motion, a discussion, and then a vote. Again, I do want to thank you all. This is not the best way to do it. The WebEx or Zoom or whatever we want to call this. I do miss the ability for us to be together, sit and talk, and to relate. And we can understand how each other are feeling. This is more difficult, and I am hoping and praying that our next meeting will be together, so we can become a committee rather than a bunch of little boxes on the screen. At this point, I'd like to introduce our primary readers for the American Bar Association Council of the Section of Legal Education and Admissions to the Bar. The two primary readers are Paul LeBlanc and Jennifer Bloom. It's your floor.

Paul LeBlanc: Thank you, Art. Good morning, everyone. Before I [inaudible 00:09:33]... The American Bar Association. The American Bar Association has been attending to legal education since 1893, and it's been conducting accreditation activities for 98 years. So it's coming up on its a hundred-year mark. It has both an institutional accreditor and also a programmatic accreditor that accredits 203 law schools, 15 of those are freestanding thus the institutional accreditor status as well. It was last before us in 2016, it was asked then to file a compliance report in 2018. That report were reviewed, and the senior department official renewed their recognition for three years. They are before us today seeking continued recognition and Nicole has been the staff person who's done the review for us. Nicole?

Nicole S. Harris: Thank you. Good morning, Mr. Chair, and members of the committee. For the record, my name is Dr. Nicole S. Harris, and I will be presenting information regarding the renewal petition submitted by the American Bar Association, also referred to as the ABA or the agency. As mentioned, the ABA is a Title IV gatekeeper for freestanding law schools that use the agency's accreditation to establish eligibility to participate in Title IV programs. The staff recommendation to the senior department official is to renew the agency's recognition for five years. The department staff also recommends approval of the agency's

requested scope of recognition, which removes the accreditation committee of the section of legal education.

The staff recommendation is based upon my review of the agency's renewal petition, additional information requested, supporting documentation, and agency file review conducted in March and May of 2021, as well as observations of a virtual site visit in November of 2020 and a virtual ABA council meeting in December of 2020. During the current accreditation cycle, the department received no third-party comments regarding the agency's renewal petition and three complaints in which one complaint is still under review. Therefore, and as I stated previously, the staff recommendation to the senior department official is to renew the agency's recognition for five years and approve the agency's requested scope of recognition, which removed the accreditation committee of the section of legal education. And the scope now reads, "The accreditation throughout the United States, the programs in legal education that lead to the first professional degree in law, including those offered via distance education, as well as freestanding law schools offering such programs." Agency representatives are present today, and we will be happy to answer the committee's questions. This concludes my report. Thank you.

Arthur Keiser: Thank you, Nicole. Are there any questions to the staff member?

Paul LeBlanc: I have one question that is [inaudible 00:13:10]... Jennifer. Jennifer and I who did the review do have one question, maybe a question to George, could you clarify for us because we weren't full of guidance on this, which is how does the department evaluate the readiness of an agency to review institutions offering distance education? As you will see in a little bit, we have a number of questions about online education, but we don't have clarity George around how the department looks at agency readiness to evaluate.

Arthur Keiser: That might be better to go to Herman.

Paul LeBlanc: Todd, Herman, anyone just [inaudible 00:13:49]... The department. We're just looking for a little guidance.

Arthur Keiser: Herman?

Herman Bounds: Yeah. Can you hear me?

Arthur Keiser: Just barely.

Herman Bounds: Okay, let me scoot over here. So our review in general really depends on the agency standards. We have a provision, a regulation that basically talks about that the institutions have to ensure that the student who enters the course completes the course and all those things, I'd have to pull up the regulatory reference, but we're looking to see we look for training of the commissioners training for the site team members or anyone involved in the accreditation

activities of the agency. We want to make sure that they have had some sort of training with regards to distance education by someone who has experience in that area. We want to look at the-

Nicole S. Harris: You want me to add what I reviewed?

Herman Bounds: Yeah. And Nicole is going to add what she reviewed and that'll probably help you out too. But we want to see some evidence in the site visit reports that there was a review of programs at the institution that are offered via distance education. The regulation is pretty clear. Agencies don't have to have separate standards for the review of distance education. However, if they're using the same standards for programs taught in-house and program taught via distance, we want to kind of look for some discussion in the site visit report about that process.

So, Paul, I hope that answered your question, but it's really a look to see what the agency's standards and requirements are. And that they follow those standards and requirements. Now on the federal student aid side of the house, they have things that they look at when they do program reviews regarding distance education, where they look for some of the institutional processes. But for us, we're kind of looking at what the accrediting agency's policies and procedures say. And if they follow those then they have to discuss it in the site visit report about that. I think Nicole, you might want to explain what you looked at.

Nicole S. Harris: Yes, so the ABA did reach out to us during their recognition period, to further regulations correspondence to the department requesting that distance education be added to their scope. And in reviewing their petitions, I requested additional sections outside of the focus review to be reviewed to ensure that distance education was incorporated in their work with verification of students and headcount, and so forth. You would see the sections that were reviewed in the petition, including sections 602 19, 18, and 17.

Paul LeBlanc: Thank you, Nicole and Herman. That's very helpful. Appreciate it.

Arthur Keiser: Thank you. Thank you, Nicole, Herman, and Paul. I'd like to now introduce the representatives of the American Bar Association. Scott Bales, who's the Council Chair, ABA Section of Legal Education and Admissions to the Bar and Chief Justice of the Arizona Supreme Court, retired. William E. Adams Jr., Managing Director of Accreditation and Legal Education, ABA Section of Legal Education and Admissions to the Bar. Stephanie Giggetts, I hope I got that right, the Deputy Managing Director of the American Bar Association, Section of Legal Education and Admissions to the Bar. Kirsten M. Winek, the Accreditation Council, ABA Section Legal Education, and Admissions to the Bar. Welcome to NACIQI. And we'd love to hear from what you have to say.

Scott Bales: Well, thank you and good morning. I'm Scott Bales, and so you can connect faces to names to my left is Bill Adams, the Managing Director to my right is Stephanie Giggetts, the Deputy Director. And I think in the corner of your screen, although it might be hard to see is Kirsten M. Winek our Accreditation Counsel. We'd like to begin by thanking the staff for their assistance. Particularly Dr. Nicole Harris. We appreciate her thorough review and responsiveness during the recognition process in terms of answering our questions and otherwise discussing the process. I'd like to briefly comment on the requested change in our scope of recognition. The council as has been noted is the accreditor throughout the United States of programs in legal education leading to the first professional degree in law, including those offered via distance education and freestanding law schools offering such programs. Previously, the council's recognition also extended to its accreditation committee for decisions regarding continued accreditation. In August 2018, the council eliminated the accreditation committee and began making all accreditation decisions itself.

It did so in order to promote efficiency, effectiveness, and consistency, for example, the council now acts in the first instance on major changes proposed by law schools, rather than waiting for a recommendation from the accreditation committee. Eliminating the committee also allows the council to move more quickly when there are concerns about a school's compliance with the standards. If the council makes a finding of non-compliance, [inaudible 00:19:49]... Report it earlier to the school, and if appropriate, to the law students and the public.

The council now sees directly how the standards are working as it conducts both the regular comprehensive reviews of law schools and the interim monitoring. In this change, while requiring more work on the part of the council has approved the accreditation process. Also, I'll note that the council currently accredits 199 law schools. And among those, we have one that will be up for full approval in 21, 22. And we also have three law schools that are in the process of teaching-out students. In conclusion, I'll just reaffirm that we think the council meets the requirements of the secretary's criteria for recognition. And we would be pleased to try to answer questions that you may have regarding our petition.

Arthur Keiser: Thank you very much. Primary readers who have questions, Paul, Jennifer.

Paul LeBlanc: We do. Thank you very much. And thank you-

Arthur Keiser: Excuse me, Paul, there was somebody with some real serious background, Candace, if you could figure out where that's coming from? I don't know where it is, but...

Candace Evans: I think it may be on Paul's line. I think it's just his environment.

Paul LeBlanc: Nothing going on here that I can share aside from our conference.

Arthur Keiser: Okay, Paul.

Paul LeBlanc: Okay. Thank you, I appreciate the introduction. Could you say a little bit more about the three schools that are in teach-out what the circumstances are and is that an unusual number for you for the ABA?

Scott Bales: The three schools that are I teach out are Florida Coastal, Thomas Jefferson, and the University of Laverne. The latter two Thomas Jefferson and University of Laverne are not closing. They're converting to California-recognized law schools. And with regard to Florida Coastal, that's one that just this spring, because of the DOE action, we directed that they submit a teach-out plan. And that plan was initially, as reflected on our website, the initial teach-out plan was not approved by the council. A revised version was approved in June, and we're now in the process of reviewing the agreements that they have with other law schools to take their students, including legal education. But I'll defer to my colleagues on other aspects of the question if they want to add.

Paul LeBlanc: Can I ask for additional clarification, I interrupt but... on Florida Coastal in May, the department refused to reinstate its application. What was the State of Florida Coastal with the agency prior to that May decision on the part of the department?

Scott Bales: I believe they had had a regular site review in the spring of 2020, and they were under continued review by the council.

Paul LeBlanc: Thank you. And I think I interrupted someone who was going to add commentary.

William E. Adams: So you asked if it was unusual to have this many schools in a teach-out. Prior to 10 years ago, rarely were schools closing. We were adding schools, but very few schools were closed, but after the great recession law school applications dropped dramatically and so schools have had problems attracting students. So we have had a few schools in the last five or six years close, or we removed their approval. So it's been more common in the last half dozen years or so, but before then it would have been unusual.

Paul LeBlanc: Related to this a point of just clarification for me. Is it correct that the ABA reviews its schools every 10 years? Is that your current cadence?

Scott Bales: Yes.

Paul LeBlanc: Okay. And you approve a substantive change. Does that cadence then also change, are you then scheduling a follow-up review within the 10 year span?

William E. Adams: We do. We do have follow-up visits for many of the substantive change... I should also clarify that between the 10 years, every year we have schools fill out extensive annual questionnaires. And so we conduct an interim monitoring

process at which every year there are some schools that we asked to respond to questions, should we have concerns about what we seen in the annual questionnaire. So within that 10 year period, a number of schools will receive inquiries from us, and depending upon the responses, action may be taken. In fact, for some of the schools that have been sanctioned, they were sanctioned because of the interim monitoring process in between the 10-year visits.

Paul LeBlanc: Thank you. That's helpful. I want to sort of move to the question of distance education, which I raised with the department that they're opening here, this is new to the agency. And I'm wondering given the nature of peer review, how you have gone about finding people qualified to look at the questions of distance education, what kind of training you do. Nicole sort of pointed to this, but could you elaborate on that a little bit and how you've prepared the agency to do this, obviously a larger piece. And then also, if you would say a little bit about what you allow during the pandemic when a lot of people obviously had to switch to remote.

William E. Adams: So even though we've had limits on distance education, we did a few years ago, permit up to 15 credits to be offered through distance education. Then we raised that to a third of the requirements for graduation. So schools have engaged in distance education on a limited level, even prior to the pandemic. We provide training every year to site visitors and schools being inspected. And during part of that training, we do training on distance education. We also have trained our council and new council members, part of their orientation every year is on distance education. So there are people who have some expertise that can look at that.

Scott Bales: And to just elaborate in response to another aspect of your question, when a law school's [inaudible 00:27:06]... Off a distance education beyond the limits of one-third of the overall program, or more than 10 credits in the first year. In the past was necessary for the school to get an acquiescence from the council. Currently, it's now treated as a substantive change request, and that in turn triggers additional layers of review and follow-up review. Stephanie, do you want to talk about that?

Stephanie Giggetts: Many years ago, like Bill said, we had a variance process, so schools wanting to try distance ed., they had to apply for a variance. We switched that to a substantive change recently. So now when they want to do more than one-third distance ed, they have to apply for a substantive changed. That requires an application that could require a site visit at the law school... generally does. There is a report that's written, and that report gets presented to the council and the site team members that are appointed to that follow-up visit are trained in distance education.

Paul LeBlanc: And a little bit about that approval process, what's taken into consideration? When is the [inaudible 00:28:23]... It's now substantive changes, it used to be a variance said, Stephanie. Could you just describe a little bit about what are the driving factors in that?

- William E. Adams: We have an application. We appoint fact finders to go to the school. They talked to the school about their technological ability. They have to do it. The training they will do to professors, the approval process for the courses, and doing an inspection of what their... if they have been doing distance education, then they would look at classes that have already been offered and also do an evaluation of that.
- Stephanie Giggetts: And we also have a supplemental questionnaire for distance education. So it's similar to the SEQ that a school would complete for their regular ten-year site visit, but it's called a supplemental questionnaire for distance education. And so it's very detailed and they have to respond to all those questions and submit that information to us.
- Paul LeBlanc: And how many schools do you have that are either primarily or the majority of their instruction is now online or some kind of hybrid form?
- Scott Bales: Well, we have to, and I think your question earlier recognizes, we have to distinguish between the emergency situation resulting from the pandemic and the schools that are offering ongoing distance education programs. We did last spring in response to the flexibility afforded by the department. We took variance applications from every law school around the country, and that was a process that involved a significant application and then some assessment. Since then, we have granted variances for fall and winter of this academic year for 179 of the 199 law schools. Now I'll turn back to Stephanie and Bill for the question as it concerns other programs that are contemplated operate on an ongoing basis.
- William E. Adams: So we have no law schools that are exclusively online. We have granted half a dozen variance of substantive changes to half a dozen schools to offer a hybrid version. All of those are mostly online, but they have residential components. So there were half a dozen that were granted. One school has decided to give up its variance, so there are five schools that have a hybrid sort of option. In addition to their residential option. There are no schools that are purely online that we approved, but there are schools [crosstalk 00:31:30]... Offering the hybrid version.
- Paul LeBlanc: And for those five, what do we know about their efficacy? What has the agency learned? And I'm going to sort of separate out the question to some extent, as Scott has suggested our point of view, which is if we're doing this before the pandemic, they're collecting a lot of data, you're asking a lot of the schools and properly so. What have you learned about their efficacy? Are they, and performing well? And how would you describe that? And then what have you learned in the pandemic about the ability to sort of do this well, and I'm going to throw out a third. So forgive me. Can you imagine a fully online law school? Is the agency open to that notion? Is there a kind of consensus thinking in the team?

William E. Adams: So with the half dozen schools that were granted variances, substantive changes, we require annual reports. And in the annual reports, we asked them what courses they're offering, who's teaching it, but more importantly, we're asking them to give us an assessment of how the students are doing. So what's the attrition like, how does it compare to your residential program? If you look at the grade points, et cetera, how is their performance in comparison to your residential program? All of these are fairly new. So we don't have bar pass results, for example, from them yet. But as far as attrition and grade points and academic performance, all of them are reporting comparable or sometimes even a little better performance by their distance ed students. So no cause for concern yet with the schools that have been granted these variance substantive changes.

I also should say, we have [inaudible 00:33:26]... For deans and associate deans, where we are also on. And they've been sharing a lot about what they're doing, and they share with each other. And we see what they're doing in regard to helping each other figure out programs that work and things like that. And maybe I'll refer to our chair to say what we might do in the future. But I mean, we certainly want to assess what's happened during the pandemic. I mean, schools have been forced to do more of this, and it appears that they have adjusted well, considering. But what the council may do in the future, I may defer to my chair.

Scott Bales: And in fact, as part of our regular process of re-evaluating our standards and assessing possible changes, we had identified distance education as a standard or set of standards that we should be looking at. And this past year, we organized a round table discussion. And the result of that was in the midst of the pandemic. It was really too soon to try to come up with further changes. And we've basically put that on our agenda as something to revisit. So I'm anticipating that in the coming year, that will be something on the list of standards that we do consider for further changes. And we'll do that in light of input from the law schools and others in terms of how things have worked over this past year.

Arthur Keiser: Thank...

Scott Bales: ... this past year.

Paul LeBlanc: Thank you. I'd like to shift gears just a little bit. When you were last before us, we had, as those who were there will remember, quite a robust discussion around our graduates, our passage rates, earnings, and debt. And that was an extended discussion. And I'm wondering what since then... or what are the ways since then the agency has come to reconsider this question of indebtedness and earnings? Looking at some of the data that's out there I would argue that there was still quite a number of ABA-accredited schools that are sending students out into markets where there is a pretty high disproportion between the amount they've had to borrow for their law degree and what they're earning. Are you having an active conversation about that? And, Bill, you've mentioned

since the recession, we've seen the nature of law as a profession change in pretty significant ways. How are you thinking about that?

- Scott Bales: Well, I'm pausing just to think because among other things that we have discussed in terms of standards revisions are the reporting as concerns student indebtedness, and we've approved some small changes in that regard. We also, of course, monitor for purposes of standard 307 the... I'm sorry, 507, I guess it is, the schools ensuring that they're taking appropriate steps to minimize defaults. The concerns generally about the cost of legal education are ones that we're sensitive to and we try in our processing of reviewing the standards and our processes, we're sensitive not to impose unnecessary costs. But one thing that's striking is if you look at law schools across the country, whether you're talking about the public law schools or the private law schools, which for law are largely, but not exclusively nonprofit entities, there's a very wide variance in terms of tuition and fees. Which to me suggests that the cost differences are primarily being driven by things other than the standards. So our ability to affect that side of things I think is somewhat limited, but I would invite Bill or Stephanie, or Kirsten to add as they see appropriate.
- William E. Adams: So we continue to talk about additional data that we should collect and report. So we just had a set of round tables on our data collection and reporting, and I think we'll do more. So, as Scott said, I think we're thinking more about could we disclose more information to applicants that would be helpful to them? I mean, there is information out there about salaries, and certainly, we have a really detailed report on employment outcomes for schools. And I think we'll continue to look at that and try to figure out ways to help applicants better understand what kind of debt they're undertaking. It's on the agenda for us, I think this year, to talk about whether we want to do more detailed analysis and reporting on debt loads of students.
- Speaker 3: And I'll just add the questionnaire committee for the council has agreed to collect student debt information. We'll provide that and we'll do that this year and we'll provide it to the council so they can review it and then decide whether they want to disclose it or take further research or action.
- Paul LeBlanc: Thank you. I'm going to pass the baton to Jennifer [inaudible 00:39:29].
- Speaker 4: Her line is muted.
- Arthur Keiser: You're still muted, Jennifer. We still can't hear you.
- Jennifer Blum: That's weird. Okay, now can you hear me?
- Arthur Keiser: Yep.
- Speaker 4: Yes.

Jennifer Blum:

Okay. Sorry about that. Welcome, and sorry about that. So I just want to make a couple of quick comments just on a couple topics. On the distance ed, I just want to say I appreciate the future effort and attention to that. I bet you've learned a lot from the pandemic so I'm looking forward to future conversations about that. And on the debt subject, ditto. If you're doing data collection I'm sympathetic on the grad school level that some of the issues on debt are complex because of the loan programs. So I think understanding the tuition, I appreciate, Judge, your comment about tuition and fees because I think getting into the heart of the tuition and fees and costs at the school, and understanding that relation to the debt levels is really important. So that's just a commentary for something to think about.

Where I'm going to focus, and I don't know if you've been watching the last few days and just previously? My focus is going to be on the student achievement standards. I know the ABA has done a lot of work in this area. Appreciate the effort and I know that it's a long journey and it's been some back and forth, but I'm going to try not to go too weedy, but we do have some questions to drill in a bit on your most recent licensure rate benchmark. In this case, I think it really seems to be a benchmark and I choose sort of lines of questions if you will. One is how you got there? And the second is the process for if a school or a program doesn't meet it.

So on the first piece and this is, as you probably know, one of my first visits, second stints on [inaudible 00:41:46] so I haven't been here during your journey. So forgive me but I do want to just talk a little bit about the context. My understanding is before your most recent standard, which is now a 75% licensure rate, and again, I'm going to call it a benchmark, you had a rate but you had sort of an alternative opportunity, sort of way in which to pass or to meet the compliance standard. Which I think was a sort of a deviation of up to 15%. Okay.

I want to understand why you got rid of that alternative which, of course, as you might imagine leads to another follow-up question about the fact that you only have one now. But let's start with the methodology of what your thinking was and why you want just a single way across the board?

Scott Bales:

Yeah. Let me start by just adding a bit to the background. The current standard of 75% passage is for those students who take the bar exam, 75% within two years of graduation. So it's not a standard that's tied to all graduating students. It, in a sense, echoes the older standard because it also, as you said, was largely a 75% standard. But that was measured over five years and it could be based on only 70% of the students. So it was a different sample. The alternative was within 15% of the average for bar passage within the state. And one thing that became very clear is that meant that in states with only one or perhaps two law schools, it was almost impossible for a school to not satisfy the standard.

So the looseness of the way both of the requirements were stated, and that alternative was the principal factor, I think, at least from my perspective, driving that change. Yes-

Jennifer Blum: Okay, so I. Sorry. Go ahead.

William E. Adams: There are a number of states where one school could really drive the statewide first-time pass average. And so there were schools that were having very poor outcomes that avoided noncompliance, because they were the only school, or they were the school with most of the graduates. So they were driving the statewide rate. And so it was almost impossible to find them out of compliance no matter how low it fell.

Jennifer Blum: How many states? So I had this as a question, actually. So you're ahead of me, which is great. How many states out of the 50? Is it the minority? I mean, half? I mean, I can't imagine it's half because I know how many law schools there are, but...?

William E. Adams: We're guessing 10 to 15, but I also indicate that in some states where a school was much larger than the other schools, they were also driving that first-time pass rate down. And that one, I can't estimate how many, but we did see that where there was one school that was very large and it was driving the statewide grade down. So they were managing to stay in compliance.

Jennifer Blum: So the process of creating a new standard that's this important to the schools, to me, on the basis of what may be a minority of states strikes me as concerning. And this goes straight... Let me just... and to Art's point at the open this morning, I want to be very careful to tie this to specific standards. The department's criteria and so I'm focused now on the agency's processes for creating new standards. And I'm interested in whether there were questions raised by your institutions during the comment process for creating a new standard and how those were attended to, if you will, in your process, such that you ended up with what is really a... seems to be, which I'll ask about a couple of minutes, a bright-line test?

Scott Bales: The process here extended over several years. It involved multiple opportunities for input from affected entities, including particularly the law schools, but others as well. We regularly follow a public notice and comment process for revising our standards. The revisions to the 316, I think in this instance, began in 2016. The council approved, after getting public comment, a proposed revision that was then sent to the ABA's house of delegates. Under our process, they have a kind of an ability to concur and refer things back to the council for further consideration, but that can only occur twice. And after the council in 2017 had recommended or approved the changes, the house of delegates did refer it back to the council. They raised some questions about further analysis and data, and the council did in fact seek additional information. It requested from law schools, for example, ultimate bar passage information for prior classes.

Again, there was a process of public comment, and there were many comments that were opposed to this change and the council considered all of those again, adopted the 75% two-year-based standard. It went back to the house of delegates again, and the council ultimately, effective in 2019, approved this change. So that process of there being extensive deliberation, inviting public comment, then a reassessment, and then that leading ultimately to the final action. That's generally reflective of how we make standards revisions. In this one, because of the controversy that it cited, it went longer than is usual for a standard revision, but it did reflect getting a lot of input, getting a lot of analysis of data.

William E. Adams: I think that the council's experience with schools that were having poor outcomes also informed their ultimate decision. That looking at schools that were having a first-time pass rates 50% or below, and seeing what happened when we had a dialogue with the schools and seeing that they could improve their outcomes. That also helped them. And that from those conversations and dialogues with schools that the 75% had seemed achievable based upon our experience with schools. And in fact, with the new standard, we currently have only three schools out of compliance and they have another year to come into compliance. And if they're not in compliance after that year, they can make good cause arguments for an extension. So it does appear that is achievable by schools and I think that also helped inform the council's decision.

Jennifer Blum: So that was... So let's go to... I might have a couple of other questions back on the actual creation of the rule but since you went there, let me go to the next piece, which is the, "What happens if a school doesn't meet it?" Because I was a little, and again, this isn't about how you all presented your documents to the department, but our systems, which as a committee, we'll talk about what we see from the department. In terms of what we receive it's a little hard to review sometimes so forgive me for asking this, but can you walk through what happens when a school doesn't meet the 75? What's the next... If you don't mind just walking through what happens? I think I understand, but I think it's really important to understand the clarity too, for the schools. That they understand what happens when it's not met and what the processes are. It may be clear to them, but I think it's good for us to understand.

Scott Bales: The process that we've consistently followed is that when a school's bar passage report suggests that it hasn't met the 75% standard. Follow-up requests for information is sent, basically to confirm that they've properly calculated the data. That something hasn't happened in the interim to change things. If that still shows noncompliance. And it's a bright line in the sense that either 75% is met or not. We follow our regular process. If there's a determination of non-compliance, the school is invited to a hearing where they can present information regarding what action the council should take.

For the schools that Bill mentioned, the three that were found in noncompliance this year based on the 2017 graduates, in each instance the council decided not to impose any sanctions, but to direct further reporting by

the law school. And as he said, the school has... they have two years within the finding of noncompliance to come back into compliance. They can request an extension of that for an additional three years. So when it comes to deciding how to respond to the noncompliance, then it does get very school-specific. We try to consider the reasons the school has offered for it's not achieving the target. The steps they put into place to try to accomplish it. And although this is our first go round with this, I'm confident that going forward, as we look at schools that's what guides the council. Are they taking appropriate steps that they can show an improvement?

Jennifer Blum: Okay. So that was really helpful actually because there were a couple of points that you made that I wasn't clear on from my own review. So that was very helpful. As a follow-up to that, I believe that under the department's sort of criteria, if you will, on student achievement standards. Sort of falling in that, I think it's your standard sections 302, 314, 315, I saw that the ABA has I think I saw 15 performance data indicators. So 15 PDIs. I'm a little confused, but not necessarily negatively... on you have the licensure rate and then you have these 14 other performance indicators. So if an institution doesn't meet the 75%... Well, I'm stating this in the negative. I'll start there.

So if you don't meet the 75%, and I think it's possible to actually, and so I looked at some of the other indicators, it's possible to actually sort of be positive that you could find a school doing pretty decently on at least many of those 14 other indicators. Is that part of your process? Like you said, it becomes subjective. So as opposed to the objective bright line. Is that part of your process to... And again, David Eubanks, I'm sort of echoing you a little bit I think, but where do the other indicators factor in if you have this hard and fast other rate... Or not hard and fast, but other benchmark?

Scott Bales: It relates to two different processes the council uses to track the results schools are achieving. And I really appreciate your question because I really hope that you and the other council members understand, we use a process of interim monitoring, we've referred to this a couple of times, that supplements the comprehensive review schools periodically undergo. So every year schools submit an annual questionnaire in the fall. Based on the annual questionnaire, we have flags, the PDIs that you've referred to, and there are 16 of them currently. And if in the school's annual questionnaire one of those flags is triggered, what it does is it prompts further review internally and potentially further review by the council. Letters of requesting information can be sent and sometimes they result in findings that a school appears to be out of compliance and further proceedings.

That's a process separate from our review of the bar passage reports for purposes of section 316 compliance. So at least as respects the 75% standard, they're in a sense complementary. And they complement each other this way. The interim monitoring has two flags that relate to bar passage. One is bar passage for first-time test-takers, and a second is ultimate bar passage within the first year of law school graduation because many test-takers who do not

pass the first time will then take it again on the next administration. And what we found is that if a law school has a first-time pass rate below 55%, that's something of a red flag in terms of signaling whether, within two years, 75% can be reached.

Similarly, if the first-year ultimate bar pass rate is less than 65, that also is a warning flag. And I think I spoke a little imprecisely. The way our flags work, it's 55% or less for first-time takers, 65% or less for ultimate first-year bar passage. But those numbers, they just guide the interim monitoring process. And that, as I said, it may prompt further inquiry. But any school where that happens, they're also going to have a bar passage report and if that bar passage report shows that the ultimate bar passage rate for two years is less than 75%, that's what really constitutes a violation of the standard.

Jennifer Blum: Okay. This is all very helpful and is adding the context so that it looks... Not looks, it is more holistic than I think it frames out to be on paper. Which is what I was really hoping to understand. And so this is all very helpful. I have one last question, and then I promise I'll be done. I am interested though in... [inaudible 00:58:19] you might not know the answer to this by the way yet, because it's new. The impact of having this somewhat bright-line standard without an alternative, which is the part that I'm sort of focused on as being a little scary, frankly. But having this sort of harder process or rate. How does that standard, your standard... Are you worried about the conflict between that standard and I know you have interest in, as a mission, as an agency, to expand access, to be conscious of diversity and inclusion and equity?

And I will say that I... I mean you can probably tell I'm a little concerned about the impact and potential conflict between two of your standards by having this and that, and also how this impacts sort of from a department of ed processes? Again, and it's sort of a process question and a 602-16 question, but the standards on your mission versus the standards on your outcomes and making sure that those aren't conflicting with one another in a way that's problematic?

Scott Bales: Well, and the concern not to adopt a standard that would discourage law schools from achieving greater diversity was very much on the mind of the council when it adopted the new rule. We directed the managing director to issue guidance that affirmed that compliance with 316 was not somehow a relaxation of the requirement and standard 206 for diversity and inclusion, or the 205 standards for equal opportunity. And we agreed that we would collect and assess data that would look at the bar passage results across ethnic and racial groups. That's something that council released this spring.

For 2017, if you look across the identified ethnic and racial groups, and these, I believe just track the government's [inaudible 01:00:58] classifications, but all groups were at 75% or greater. That there were variations, which would be expected, given what we know about variations in other measures of achievement that vary our process next [inaudible 01:01:14]. For 2018, with one exception, all groups had bar passage rates of 75% or higher. The exception was

the Hawaiian test takers. It's a very small group. There were around 35 test-takers in 2018, and if two more out of that group would passed, they would have met the 75% standard.

So we have been conscious of those issues. One thing, I mean this is an impression, but when we've looked at schools reporting on their academic support efforts as they relate to bar passage, I think a consequence of the standard is schools have been making greater efforts and those efforts have benefited students of color. And as Bill said, we currently for 2017, we have now only three schools that ultimately did not comply. For 2018, in addition to those schools, we initially had I believe five schools that were not in compliance based on the 2018 graduates. Since that determination, three of those schools have come into compliance. So we have two schools currently not meeting the standard in 2018, in addition to the other three. So it's a process that we're continuing to explore and to analyze the data in. But we think that it has so far been consistent with the goal of ensuring that law schools do advance diversity and inclusion, but at the same time that they're offering sufficiently rigorous programs and instruction that those who graduate are able to be admitted to the bar and engage in the profession.

- William E. Adams: And if I can add, also we are closely watching the matriculation admission statistics. And so we have since this has been implemented, looking at the first-year admission statistics demographically and they have actually gone up very slightly. I don't want to exaggerate a jump of one or 2%, but I think if we saw a dramatic or significant decrease in people of color being admitted, that... well, I'd certainly take it to the council to talk about whether we think 316 is causing that. But thus far, the enrollment of persons of color has been stable and actually increased very slightly in the last couple of years.
- Jennifer Blum: I appreciate that point because I was going to ask about the potential impact on the other side of the equation, which is admissions. So I appreciate that.
- Arthur Keiser: Thank you, Jennifer.
- Jennifer Blum: Yep. I'm done.
- Arthur Keiser: Claude.
- Claude Pressnell: Yeah, thank you. Thank you very much. I appreciate the agency coming before us here today. I want to give you an opportunity to respond. Dr. Harris indicated that there were three complaints, one of which is currently under review. One of the complaints that we received was about standard 316 from the Inter American University of Puerto Rico School of Law. So there are concerns about actually 316 and the impact on minority-serving institutions. Then I wanted to give you an opportunity and [inaudible 01:04:53] can step in here and help clarify anything we need, but could you just generally verbally respond to the complaints that were received?

Scott Bales: Well, with respect to Inter American, we did, I believe, send to the department a letter that provides a fairly detailed response. I'll try to briefly summarize a couple points though. First. It is in process, in terms of the council's procedures as the letter reflected. There was a determination after the hearing in May not to impose sanctions on the school, but to direct some follow-up reporting on the efforts they described. That decision reflected our consideration of their special circumstances. I mean, we recognize there have been some very unusual challenges in Puerto Rico for the entire country, much less just the law school, and that affected our analysis.

Under our procedures, if within the two years they don't meet compliance, they can, as we explained in our decision letter, they can request a further extension of time and that would be considered. And then we've also been interested in what their discussions are within Puerto Rico about revising their cut-rate for bar admission. There's been some uncertainty or confusion, I guess, about how they set their bar passage rates. The school has made some arguments that in effect there's a curve, so people can never pass at the required standard. That doesn't seem to be the understanding the Supreme Court there has, but we would obviously reconsider that in terms of our ultimate actions. So that process is, as I've said, is underway.

I'll pause. I'll invite my colleagues to add more. I want to make sure I responded to your question, but.

William E. Adams: As the chair said, the Supreme Court is now considering whether they want to change the way that they assess their bar exam and the cut score, I mean, it would be helpful. I mean, ultimately I guess the council is concerned if... to [inaudible 01:07:37] the discussion people have to be licensed and they have to pass the exam. So there is concern about, I mean, us being too permissive and allowing schools to argue reasons why they can't meet that 75% standard. But I think, when their time expires, if they're still below 75%, the council take very seriously any arguments for getting more time. And depending on how they close they would get, as I said, we've seen with all the schools that we've been in dialogue with that they have improved their bar passage after being asked by the council to talk about what they've done. And I think the council wants to see what further steps the school will take and then at the end of the two years decide how close they've gotten, what they've done, and whether additional time needs to be given or whatever.

Claude Pressnell: All right. Thank you very much. Appreciate it.

Arthur Keiser: Wally or Kathleen. Wally, and then Kathleen.

Wallace Boston: Thanks, Art. First of all, I'd like to commend the ABA for really the section on their website that publishes the annual surveys for 509 required disclosures, employment outcomes, and bar passage outcomes for each of the law schools that they accredit. I took a look at those and I'm impressed that you have them there for every year, going back fairly far for each of the institutions.

Going back to the conversation that we had earlier with Paula [inaudible 01:09:42] about how you're addressing the high borrowing rate. I wanted to chime in a little bit more about that. A couple of weeks ago the college scorecard released its latest dataset and while-

Wallace Boston: ... just this latest dataset. And while it's dashboard reports on undergraduate programs, the latest data set includes data for graduate programs. The Wall Street journal came out with a couple of articles focusing primarily on master's degrees, but the data set does include law schools, at least 169 of your 199 programs. And it appears that the universe of law schools, according to the department's own data, that the average debt is about 145,000. And out of the 169 listed in the dataset, there are actually only eight that have a ratio of debt to earnings less than 1.0, meaning that the rest of the field, the debt is substantially higher than the earnings, which are measured two years after graduation.

Given that this data is now out there, and I commend the department for attempting to publish more and more data about earnings relative to debt since I think it's a big national issue, but since this data is now out there, when I look at items like your 509 disclosure, and I'm just going to pick an example because it's first alphabetically, American university, I think it's the Washington college of law. You have a grants and scholarships section. So they fully disclose the percentage of their students who received grants. How many of them get less than half tuition, how many get have to full and how many get full?

And that's great, but the loan information, which if you look at this data that's been recently released, where it says the average, or I'm sorry, not the average, the median loan amount for AEU law students is \$175,000, and then the median salary is 63,000, those are data points that if correct, certainly would be useful to me as a prospective law student or all the law students. So while I would say that there's certainly no regulation, I would strongly encourage you all to have a deeper conversation, particularly about how you post it. And I will note that one of you added that perhaps not all of the borrowings relate to the tuition and fees, and I concur.

As I reviewed the list, it seems like schools like AEU that are in a big metropolitan area where the cost of living may be higher, seemed to have, even if I look at these grants, that average loan balance has to be influenced by more than just tuition and fees. But according to the department's report outside of the college scorecard, 69% of all law school graduates borrowed money during the 2015, 2016 years. So we clearly have a discrepancy between the people who were able to afford to pay for law school totally and those that borrow, and the amounts are pretty substantial. Can I just have a few comments from you on that?

Scott Bales: Well, I appreciate your point and I believe, and I think this is shared on the council, that we need to continually be reassessing how the data that we collect from law schools might usefully be translated into things like the 509 reports,

because there is a consumer information side that we recognize that it's an important part of our role as a regulator. We also, on the side of the information in the schools report, we are asking ourselves regularly, should we ask for more information?

So for example, with respect to student loans in the coming year, we'll be getting additional information from law schools in terms of the demographics of the students who do have debt, either federal loans or non-federal debt. So in terms of your general point, this is a topic we should be cautious of when thinking about. I absolutely [inaudible 01:14:42] I'll invite Bill or Stephanie or Kristen, if they want to talk a little more about what our process is [inaudible 01:14:49] what it seems on the horizon.

Stephanie Giggetts: Yeah. I mean, I'll just add that we approach what we collect carefully. So we always take a step. We are going to collect the debt information this year, and then the council is going to look at it and going to decide, what should we publish? What should we not publish? What should we do for the research? Can we break it down on [inaudible 01:15:11] so we're at the stage of that process now where the council has agreed, and we are going to collect that for this year. And then the council will review the information we receive and decide how they want to disseminate that information.

Scott Bales: So previously, the reason the council has been hesitant to try to collect salary and or dev information, is whether there was a way we could verify what we were getting was accurate. Now with the department scorecard, do you think we'll seriously talk about how to disclose that to applicants either through our 509 or a link. But prior to that, there was this concern, would we get accurate information from the schools about salaries and debt? And I'm not trying to accuse the schools as being dishonest, it's difficult for schools to necessarily get graduates once they've graduated from the school to communicate with them about information.

I mean, we require them to do it on employment status, which we can double check. I mean, there are ways for us to double check when we do our audits of employment. So we can look at files and say, they're saying this person is employed by a law firm, we can double check that with law firms website. It's much harder for us to verify debt and salary, but with a department scorecard now, I think that will make it easier for us and something well very seriously with that.

Wallace Boston: Thank you.

Arthur Keiser: Kathleen. You're muted, Kathleen.

Kathleen Alioto: Sorry. Could you walk us through what you've done in handling a school like Western Michigan university Cooley law school, which has the highest borrowing rate of any of the schools that are in the scorecard, and charges at

students 62,000 doesn't seem to have a great success rate, and was one of the 10 law schools, which failed to comply with standard 16. How do you handle it?

Scott Bales: Well, I'm going to frame my remarks carefully so we respect the confidentiality of the accreditation process. As has been noted on our website and all one of the schools that was found out of compliance with 316. And that triggers the process I described earlier in terms of a school is given an opportunity at a hearing to discuss with the council, whether sanctions are appropriate or what other measures should be taken. So they are in that review process with the council. Well, there was a hearing in May and a determination then made that there would not be a sanction imposed, but they're operating within that deadline of coming into compliance, and that a school might be in that process with respect to one standard, doesn't mean that everything else just stops when schools are subject to all the standards on an ongoing basis.

So you could have a school that is under review for one standard, but at a different stage in the process with respect to others [inaudible 01:19:02] The other point I'll note, and maybe this is already recognized, we do have that standard 507 about schools taking appropriate steps to minimize defaults on loans. And that pulls into it, the department of education's standards on default rates and law schools generally do very well in terms of that standard. In the annual questionnaire, we get that information to know which school and we don't have schools currently that are.... We haven't identified school in violation of that standard. Indeed, the vast majority of schools don't even come close.

Kathleen Alioto: I'm not so sure [inaudible 01:19:59] have a student with an average debt or 180,000 at graduation.

Arthur Keiser: Is that a question? If not, I go to Roslyn, you're next?

Roslyn Clark Artis: I really wanted to follow-up if I could, just on the conversation we were just having about outcomes related to both employment and debt. Certainly you've indicated that employment in particular is tracked. Is there any analysis being conducted as it relates to the demographics? I know that we're not talking about that in terms of debt, but I think we all know that debt is relative to a whole host of SES, socioeconomic status factors and other things.

And so I'm really interested as a law school graduate, in understanding whether we've actually made any gains in the last couple of decades around quite frankly, low-wealth minority students and outcomes in law school up to, and including placement rates, or is there any intent to begin to look at those demographics and where we assess exactly where students are, institutions are failing particular categories of students.

Scott Bales: I'm going to answer that in two parts and then invite my colleagues to respond, because I think they'll probably have much more information than I do. First, I wanted to point out that in our interim monitoring, we do have two flags that

relate to employment. We have one that is the percentage of graduates who are unemployed and seeking work. If that is equal or more than 20%, that's a flag. And then there was another one based on the percentage of graduates for whom the law school doesn't know their employment status. So when those are triggered, we will assess whether to ask for more information.

Interestingly though, in 2020 at least, those didn't often trigger interim monitoring and many others, we were unsure what was going to happen with the pandemic in terms of employment. The data at least didn't seem to present or identify the problem. The second part of my answer would be to say, we don't, as far as I know, track by demographic employment data. I believe the national association of law placement does. And I see Kristen and Stephanie nodding. So this is probably a point where I should be quiet and let them talk.

Stephanie Giggetts: You can go ahead if you'd like to speak, Kristen [inaudible 01:22:47].

Kirsten Winek: Good morning. We don't collect the demographic data on employment outcomes because now the National Association of Law Placement does. They collect a lot more data points related to things like first-generation status, minority status, students with disabilities and things like that. And then they come out with an annual compendium that really breaks this out, along with salary data, geographic data and a host of other things. So they really take the lead on that and we focus more on charts for each law school that are on the same site, where we have the 509 and having a really robust audit process to make sure that that data is accurate.

Speaker 7: So if I can add, there's always this question about, should we collect data that someone else already is, and it's already out there. I mean, schools, I think legitimately complained to us at points that the data collection is a cost to the school. And if we're requiring them to duplicate what they're already reporting publicly, we just add to the classic legal education when we further burden them with data requests. But I will say we've had two sets of round tables this year because diversity, equity and inclusion is one of the priority issues for the council. And so one was more broadly asking various constituencies from the profession from the schools, from the public, generally what we can do better about diversity, equity and inclusion.

But the most recent one we did was on data collection and was really, the primary focus of it was more what additional data collection should we do regarding diversity, equity and inclusion. And so I think we just finished those round tables and we'll be summarizing the comments and giving them to the council. I do think we're going to do additional data collection and reporting around various issues around diversity. And certainly, the debt load of persons of color is something that we're concerned about. And who's getting the scholarships, what kind of debt is left. And so trying to once again, dig into how do we ask the question in ways that we think we'll get accurate information that we can report in a way that's clear to applicants in the public is something I think we're taking very seriously.

And that's what this last set of round tables was about. How can we do that? What should we ask? How can we feel sure that what we ask will be accurate and how are we going to report that in ways that will be useful to applicants in the public? So it is something that we have been focused on this last year, and I do think we'll be doing additional data collection around issues around diversity, equity and inclusion.

Stephanie Giggetts: I think certainly I appreciate the desire not to duplicate the data requests and the burden that imposes on an institution. But if you collect it for one, you simply copy it to another, it's not that big of a deal. You collected it, you collected it doesn't matter who you gave it to. However, going back to the when institutions fall out, i.e., the 20% or more that was referred to earlier, when that triggers a look, do you not look at who's falling out? And what do you do with that? So when somebody trips and you see this greater than 20% inability to be employed, or that you don't know where they're employed, what happens?

Scott Bales: If the interim monitoring flags get tripped, there's initially a staff review to assess, does this really reflect a problem or not? It goes to, there's a neutral monitoring committee of the council that meets periodically. And we'll then also look. So, for example, if you had a school, and this is truly a hypothetical, if you had a school that you're showing a 25% unemployed and seeking, I think what will happen is we're going to look at, okay, is there some question why this is happening, which would seem to be, and then you look at other things like, is there also for this school, is there a bar pass issue, have been changes in school resources that might relate to centers like what counseling they can give to people in terms of employment?

One of our other standards about student support services includes support from seeking employment. So that could prompt a letter of inquiry to a school saying, look, it appears you're raising some compliance issues with these standards, but I don't know from experience, I've not been on the... Well, I have been in the interim, I haven't been [inaudible 01:27:57] I can't recall from experience, whether we tried to dis-aggregate and say, how has this impacted a particular demographic, which the students are not.

Kirsten Winek: Yeah, I can't recall either, but I mean, even in discussions with the council, if it were to come up, when a school was under a review, those questions do come up and it varies by school. So we may see issues at a different part of the review of the school, where they have low minority enrollment and we'll say, why is your enrollment falling? And then you have poor outcomes for your bar pass, and then you have poor outcomes for employment, then we're going to raise those questions if we see all those issues and we connect the dots.

Speaker 7: So it really is school-specific. So as Ms. Bloom indicated before, we have like 16 indicators. So looking at that, we would ask depending upon why is it that you have this kind of unemployed seeking and who are the people that aren't finding jobs and why? So the first inquiry is pretty general, trying to get them to explain why they think this is happening and to whom it's happening. And if

we're not satisfied with the explanation, then we drill down with more specific questions and would ask more specific questions about the people who aren't being able to find a job.

Arthur Keiser: Okay. Bob Shireman.

Bob Shireman: Thank you. And thank you for the rich discussion and your presentation. There was an article in the ABA journal in March about the rise and fall of for-profit law schools accredited by the ABA. Your inclusion of for-profit schools in your scope is relatively new, and it arose to six schools in 2010, but now there are three, after some problems, issues in some of the schools and two of those three, according to this article may be converting to non-profit leaving just one for-profit profit law school under your accreditation.

Two questions. One is, are there lessons from your experiment over the past couple of decades with for-profit law schools that have led you to make any changes in how you review and oversee for-profits in particular, given their structural differences? And then second, as schools consider converting to non-profit, what are you doing to ensure that those conversions are not corrupted in the way that some past conversions have been?

Scott Bales: Well, I think our standards do not make a distinction based on whether a school is for-profit or non-profit. We try to be consistent in our application of standards like the standard under 202, is it? For financial-

Stephanie Giggetts: For finances.

Scott Bales: ... resources? So the questions we ask is, is the program going to be adequately funded? Is a school learning viable on a continuing basis? I think if I reflect on my experience, and I was on the accreditation committee for five years before joining the council in 2018, I think we probably from experience, learned to be more focused on the way financial relationships might be structured. And I know that influenced decisions you made both in terms of compliance findings. And if you look at the few instances where the council has considered proposals to change from one status to another, and this is reflected on our website in terms of publicly ordered actions. We acquiesced in a request by Atlanta's John Marshall to convert from for-profit to non-profit status.

And we did not acquiesce in requests by Florida coastal schools law to do so. And I think, again, what reflects is perhaps some growing sophistication on the part of the console in terms of the questions that we should ask and we should look for. I would also say, you can identify legitimate reasons why schools might want to make a change. They can arguably save some money in terms of taxes. Some of them claim that it will help improve their fundraising to be in a nonprofit status. And if that were to actually increase the school's financial liability, with time, that would be a good reason for, I think the council to actually have some change.

On the other hand, where you have a for-profit school and there is a contemplated change where at the end of the change, you're going to have a nonprofit school, but it's going to have a lot of connections to other entities that are for-profit entities, I think it's very appropriate for the council in those instances to say, well, what's the real viability of the school going to be in terms of its ability to meet the standards and continue to provide a quality education. So I may have wandered a bit to your question, but that I think does capture the way the council has evolved on this in our general [inaudible 01:33:51]

Speaker 5: Great. I really appreciate that. And I think you're right that many of us as reviewed these issues over the past decade or so have seen how a more sophisticated analysis of financial relationships as you described it is critical because the key difference between the for-profit and non-profit is the ability of those in control of a for-profit to extract money, if you're selling their ownership or are taking profits.

And that makes a difference in terms of the amount of resources that go to students and the decisions that are made about whether to invest in student success and that is seen generally in the data. So I appreciate that you've learned over the last couple of decades and look forward to give you a continuum on this talk. Thank you.

Arthur Keiser: I see no further questions. We do have a third party commenter. I'd like to recognize Barmack [Masarian 01:35:09].

Barmak Nassirian: Good morning.

Arthur Keiser: [crosstalk 01:35:17] okay, good. Thank you.

Barmak Nassirian: Good morning. I don't know that you can see me because I don't know how to turn on my video, but maybe you can. Pleased to appear before the company on behalf of Veterans Education Success, a non-partisan research policy and student advocacy organization dedicated to advancing educational opportunities for veterans, military connected students and their families. My name is Barmak Nassirian and I am pleased to be appearing before the committee in support of continued recognition of the ABA. The reason for VES's support of the ABA is two-fold, primarily because being accredited by the ABA is a precondition for licensure in 49 states and the district of Columbia.

It borders on the nonsensical to allow federal aid, particularly in the form of loans, to be taken out by students seeking to become attorneys when they are not in fact eligible to sit for the bar exam in most states. There is one state that makes an exception, that is the privilege of that state to make that exception. But in general, federal funding should not be extended to students who do not have a reasonable expectation of being able to practice. With regard to VES, this is an area where they are better protected under federal law than other students. Legislation enacted earlier this year bans law schools that are not

accredited by the ABA from participating in the GI bill education benefits programs.

That makes perfect sense to, I think, most observers. And the question before this committee should be how it is that institutions that are accredited by agencies it recognizes, can offer law programs that are not accredited by [crosstalk 01:37:31] that is a function of candidly, lack standards of this committee for not questioning those institutional accreditors for the process, by which they arrive at a judgment that is different from that of the only reliable authority on the quality of legal education, which is the ABA. Thank you very much. And again, strong support for ABA's continued recognition.

Arthur Keiser: Thank you. To the agency, I have a response to the third party comments.

Scott Bales: No.

Arthur Keiser: Thank you. I'll call out Nicole. Do you have a comment on either the presentations or the response to the third party commenter?

Nicole S. Harris: No, I have nothing further. Thank you.

Arthur Keiser: Well, at this time, I'd entertain a motion by the primary readers regarding the American Bar Association.

Speaker 8: Sure. I'll be happy to make that motion. Make a motion to approve staff recommendation that the agency's recognition be renewed for a period of five years.

Arthur Keiser: Is there a second? Is there a second?

Jennifer Blum: Second.

Bob Shireman: Second.

Arthur Keiser: Whoever said that, identify yourself.

Bob Shireman: Bob Shireman.

Jennifer Blum: [crosstalk 01:38:54].

Arthur Keiser: Okay. Is there further discussion?

Jennifer Blum: Yes.

Arthur Keiser: Jennifer.

Jennifer Blum: So, I mean, I do support the five years, but I wanted to ask a question [inaudible 01:39:10] the department. Here are my concerns. They have a lot on their plate, the ABA, I mean. I thought about suggesting it be less than five years, but they responded to a lot of my questions and concerns today. Having said that, they acknowledge themselves that they have a lot on their plate and that they're doing a lot with regard to their new standard to understand what in their standard works, doesn't work. The back and forth between the CT and the ABA over the years has been over the standard. We don't know exactly the success of this standard in terms of clarity.

And I want to be specific as it relates, but given yesterday's conversation, I'm going to be really specific here. There are a number of provisions of the department criteria. I can list them if we get there, with 602, to 16A1A or sub one comes to mind, and then there are the monitoring requirements, standards, the mission requirement standards. And so my question, and I guess it's for the department is, I'm a little confused on the motion options.

I don't want to have a long conversation, but is it possible to renew an agency for five years, but also require a compliance report on a specific criteria. And in this case, it would be for them to come back with data on the effectiveness and the relationship between their 16 PTIs and their licensure rates.

Donna Mangold: Jennifer, it's Donna. I'm going to do the best I can to answer. I was responding to something else on email when you started the question, so I apologize. Keep in mind that if an agency is out of compliance on some issue and you want the compliance report, you continue recognition. If an agency in substantial, so you continue recognition, you don't renew it, you continue it.

And then you put in a request for a compliance report in 12 months. If an agency is in substantial compliance and that's defined in the regulations, you can then renew recognition for some period of time with submission of a compliance report... I'm sorry, monitoring report on whatever criteria within sometime in the not too distant future. So that-

Jennifer Blum: Okay. So we could say substantial compliance and right to renew for five years with a monitoring report in two years.

Donna Mangold: Correct? Yeah. And so what happens though, monitoring report goes to the staff, the staff reviews it, and if the staff signs compliance, nothing further happens.

Jennifer Blum: Okay. The other-

Donna Mangold: [crosstalk 01:42:29] Yeah.

Jennifer Blum: No, that's great.

Donna Mangold: I'm sorry, go ahead.

Jennifer Blum: [crosstalk 01:42:33] mention the other reason I feel like this might be a good idea is the department itself acknowledged... I meant to ask the department about this earlier, the department itself acknowledged that it has a pending complaint. So I would prefer, I mean, I know there's a motion on the table that's been seconded. I'm just saying to the group, I would prefer to just say substantial compliance for five years, but require a monitoring report in a couple of years, two years. Purposely not any one year because I think I would like to see how things are progressing for the agency, so I would say to you but-

Arthur Keiser: Jennifer, I'd like to respond to you, and from my perspective. We do not ask for the, or do we tell the agencies how to set up their performance standards nor do we look for the, whether it be the critical analysis that it got there, as long as it's demonstrated that they do that. And I think that's what the staff reviews when they're going through the process. And the second part that if there's a complaint, there are always complaints that are going on.

That doesn't mean that the agency's out of compliance, it means there's somebody who has a disagreement with them and that's going to continue to happen. So I think we need to be careful. It's like yesterday with the same thing with the 70%, if the staff reviews the process, and I'm not sure we are there to analyze what is appropriate or not appropriate, that's what the commission's job is, and the staff goes in there and reviews those things.

Jennifer Blum: Actually are because of the new way the new regs are written, it says that the agency must set four clear expectations under 602, 16A. I-

Arthur Keiser: Those are clear, but your question is not the clarity. You're not questioning the clarity, you're questioning the underlying analysis that got them to that clarity. Aren't you?

Jennifer Blum: Well, and that's why I also mentioned their processes and operational criteria section. But for the processes, I'm not sure we're right on point either, and the impact is pretty serious. Now, I think that they answer the questions really well, which is why I support-

Jennifer Blum: I think that they answered the questions really well, which is why I support five years. But I think then in terms of setting clear expectations, it's not a hundred percent clear to me. They've got 16 PDIs that they have in the annual reporting. And then they have the licensure rate issue. And I'm not [crosstalk 01:45:18].

Arthur Keiser: Would you like to make a motion to amend it, and then we can just let everybody else comment on it?

Jennifer Blum: Well, I think I tried to, but so I'm not sure that that's how-

Arthur Keiser: Well, you need to make the-

Jennifer Blum: So, from the process yesterday, to be honest with you and you weren't part of the conversation, I'm a little unclear about ... I guess it's an attempt to ... I'm not sure how the amendment process can [crosstalk 01:45:41].

Arthur Keiser: Well, I can show you how. If it's considered a friendly amendment, then the primary reader ... the amender ... the motion maker, which was Paul, and the second, I think it was Bob. If you accept that as a friendly amendment, we can move that forward. If not, we have to do a vote. Paul?

Paul Leblanc: Yup, could you just restate it, so that we have it for the record here?

Arthur Keiser: I think what she's saying is that we recognize for five years with a monitoring report in two years. Is that what you said?

Jennifer Blum: Yeah, I think technically the department says it has to be substantial compliance is the term though. So ...

George Alan Smith: All right, so Paul ... Claude, this is George. Paul's motion only recommended five years. It didn't mention anything about the change in scope of recognition. So, if he simply just said, "I agree with the staff recommendation," that would take care of all that was in the staff recommendation. And Jennifer could make whatever movement, or an amendment that ... She could suggest an amendment after that. But Paul needs to correct the ... If he wants to accept the full staff recommendation, just saying that. Because he only said, "Five years renewal." He forgot the scope of recognition part that's in the recommendation.

Paul Leblanc: I apologize, George. So let's amend that for starters. And then to be [inaudible 01:47:12], is it a compliance report that happens in a two years? No, it is a monitoring report.

Jennifer Blum: Correct.

Paul Leblanc: Okay, I am fine with that. I would second. I'll give it a second.

Arthur Keiser: Does the second accept that as amendment?

Claude Pressnell: Yes, that's fine.

Arthur Keiser: Okay, so the motion is that we renew for five years, plus all the language that's in the staff recommendation, and adding in a monitoring report in two years, on those issues that you addressed, Jennifer, right?

Jennifer Blum: Yup.

Arthur Keiser: Okay, are there any other comments, Claude?

Claude Pressnell: Yeah, I'm not convinced that they're out of compliance. So, I would have a hard time, because the monitoring reports suggest that they're out of compliance. So Jennifer, can you help explain exactly how they're out of compliance?

Jennifer Blum: I actually want to ask Donna, does that demonstrate that they're out of compliance? Is substantial compliance out of compliance, Donna?

Donna Mangold: No, to do a monitoring report, they're in substantial compliance. Substantial compliance is defined in 602.3. Let me get my regs for you. [crosstalk 01:48:30], and I can read it.

Jennifer Blum: So, I just want to be clear. I'm not saying that they're out of compliance. I don't want anybody to think that I think that there are out of compliance [crosstalk 01:48:40] not in compliance.

Claude Pressnell: Then, I'm just curious as to ... okay, okay. So the monitoring report, and maybe that's where I'm unclear, and I-

Jennifer Blum: It's not a ... So, there's a big difference, I think at this point. This is a new development, I think, Claude. I'm not asking for a compliance report. I'm asking for a monitoring report, which is different.

Donna Mangold: And I just want to make sure. Monitoring report is when there is substantial compliance. Substantial compliance means the agency demonstrate to the department that it has the necessary policies, practices, and standards in place, and generally adheres with fidelity to those policies, practices and standards, or the agency has policies, practices, and standards in place that need minor modifications to reflect its generally compliant practice.

Claude Pressnell: Okay, so that's what you're saying is that you're suggesting that there are going to be needed adjustments.

Jennifer Blum: I think the agency itself acknowledge that they might be needing to make adjustments of some things.

Claude Pressnell: Thanks for the clarification.

Arthur Keiser: Okay. Let's see. Kathleen, is your hand up, or is that left up from before? I think it's left up from before.

Kathleen Alioto: No, mine isn't.

Arthur Keiser: Nicole, you have something to say?

Nicole S. Harris: Yes, I just had a quick question for Jennifer. I know you mentioned 602.1681 for student achievement, and you mentioned 602.19 for monitoring. And I'm just trying to figure out exactly as a staff, who will be reviewing this monitoring

report that you're requesting. What exactly am I looking for? And what exactly am I looking for that deviates from what was already submitted? If you could give me some clarity, I'll be happy to take notes.

Jennifer Blum: Yeah, sure. I mean, I think the clarity that we're looking for is the relationship between what happens when ... Because their standard is new. So what we're looking for is clarity around ... And I think I may have misquoted on 602.19. It's more, I think on the enforcement of [crosstalk 01:51:12] and 602.20. The clarity we're looking for is in the application when they are applying that 75%, how that interrelates to the other 15 or the 16 PDIs during the annual report requirements. And so, while it's a white line, it's also qualitative. And those are the pieces that I think are not clear. I mean, I think even the agency indicated some lack of clarity in terms of, because it's so subjective. So, in terms of the clear expectations, I think we're looking to for them to demonstrate that they are establishing clear expectations for their institutions around the relationship between their licensure rate and the other performance indicators when they are enforcing their student achievement standard.

Arthur Keiser: Okay, okay. Is that clear to you, Nicole? So, we have a motion.

Nicole S. Harris: Yes.

Arthur Keiser: Folks have agreed to it. I'd like to call the question unless there's a really critical, Mary Ellen?

Mary Ellen Petrisko: I want to be clear on what reasonable expectations we should be setting for the agency to come back with evidence and information within a certain period of time. If there's new standards there, if there's new PDIs there, what can we reasonably expect for them to be collecting, to be analyzing, to have meetings on, and to be finding evidence for? I'm not so sure that coming back in two years is going to be sufficient to really see something that's going to show us any different, that would make a difference in this.

Arthur Keiser: I do appreciate it, Mary Ellen.

Mary Ellen Petrisko: Thank you.

Arthur Keiser: David, you have a comment?

David Eubanks: Yes. Thanks. Frankly, I think we should have had a discussion about the amendment. Because I sympathize with Jennifer's position, but I was convinced by their, I thought, very thoughtful discussion of the metrics. And those kinds of decisions come down to high level judgments often. It's not black, and white, or a formula, and I thought they were very convincing. So, I'd like to be able to vote for accepting the full staff recommendation for five years without this. I'm not quite sure how I'm going to vote on this as it stands.

Arthur Keiser: Bob, you have your hand up? Quickly.

Bob Shireman: Yeah, my understanding is the monitoring report is something that is done at the staff level, and is not really brought to us unless there is a significant problem found in terms of them actually coming back to us as [inaudible 01:54:10]. I'd asked to be corrected if I'm wrong, but I'm not as worried about it. It's taking enormous amounts of time, and being-

Donna Mangold: That's correct.

Bob Shireman: ... necessarily in addition to our agenda.

Arthur Keiser: Okay, I'm going to bring the question to closure. If you agree with the addition, the report plus the monitoring report, you can vote yes. If you don't agree with the monitoring report on it, or the recommendation, you would vote no. And you can recuse or abstain. We'll start with Kathleen.

Kathleen Alioto: Yes.

Arthur Keiser: Roslyn?

Roslyn Clark Artis: No.

Arthur Keiser: Jennifer? Jennifer? Jennifer?

Jennifer Blum: Yes, sorry.

Arthur Keiser: I would assume. Ronnie?

Ronnie Booth: No, because of the amendment.

Arthur Keiser: Wally?

Wallace Boston: Yes.

Arthur Keiser: Jill?

Jill Derby: Yes.

Arthur Keiser: David?

David Eubanks: No.

Arthur Keiser: Molly?

Molly Hall-Martin: Yes.

Arthur Keiser: Paul?

Paul Leblanc: Yes.

Arthur Keiser: Robert?

Robert Mayes: No.

Arthur Keiser: Mary Ellen?

Mary Ellen Petrisko: No.

Arthur Keiser: Claude?

Claude Pressnell: No.

Arthur Keiser: Bob?

Bob Shireman: Yes.

Arthur Keiser: Steve?

Steve VanAusdle: No, or yes. Excuse me, no.

Arthur Keiser: Okay, you have ... So, that's one, two, three, four, five, six seven nos. One, two, three ... Yeah, Wally, you voted not?

Wallace Boston: I voted, yes. Somebody didn't record me.

Arthur Keiser: Okay, please get that in there.

Steve VanAusdle: And Bob I think ... Didn't Bob vote yes?

Paul Leblanc: Bob voted yes as well.

Arthur Keiser: Right.

Bob Shireman: I voted yes. Yes.

Arthur Keiser: Okay, because this is important. Let's see, how many? Anybody want to count for me? One, two, three, four, five, six, seven yeses. One, two, three, four, five, six, seven nos. Well, guess what? I get to tie the vote. I will vote no. We're back to the original motion. That's, Paul?

Paul Leblanc: Happy to reiterate the original motion..

Arthur Keiser: Thank you. Okay, well the motion then is as stated by the staff. And we will have a ... unless there's more discussion on this?

David Eubanks: Call a question.

Arthur Keiser: Thank you. Kathleen, on the original motion?

Kathleen Alioto: Yes, yes.

Arthur Keiser: Roslyn?

Roslyn Clark Artis: Yes.

Arthur Keiser: Jennifer?

Jennifer Blum: Yes.

Arthur Keiser: Ronnie?

Ronnie Booth: Yes.

Arthur Keiser: Wally?

Wallace Boston: Yes.

Arthur Keiser: Jill? Jill?

Jill Derby: Yes.

Arthur Keiser: David?

David Eubanks: Yes.

Arthur Keiser: Molly?

Molly Hall-Martin: Yes.

Arthur Keiser: Molly? Molly?

Paul Leblanc: Molly said yes.

Arthur Keiser: I didn't hear that. Paul Leblanc?

Paul Leblanc: Yes.

Arthur Keiser: Robert?

Robert Mayes: Yes.

Arthur Keiser: Robert?

Robert Mayes: Yes.

Arthur Keiser: Mary Ellen?

Mary Ellen Petrisko: Yes.

Arthur Keiser: Claude?

Claude Pressnell: Yes.

Arthur Keiser: Bob?

Bob Shireman: Yes.

Arthur Keiser: And Steve?

Steve VanAusdle: Yes.

Arthur Keiser: Okay. Thank you very much, everyone. I hate to take a five-minute break, but we do need it. Let's come back at five after 11:00, and we will ... Please be fast, and we're going to go to TRACS, Trans Association of Christian Colleges and Schools. Five minutes please, that's 11:05.

David Eubanks: Art, please, my vote is recorded incorrectly on there.

Arthur Keiser: Okay, is that David?

David Eubanks: Yeah, I voted yes.

Arthur Keiser: Okay, whoever is the recorder, please check that. Thank you for your patience, everyone. Thank you, ABA, if you're still there. (silence)

Okay, welcome back everybody. Our next agency is the Trans-National Association of Christian Colleges and Schools, the accreditation commission, or TRACS. Our primary readers are Steven VanAusdle, And Robert Mayes. You gentlemen, would you like to start? You have to unmute yourself, Steve. We heard you before, but now, I've got to hear you now.

Steve VanAusdle: It was better muted, probably. Mr. Chairman, Robert Mayes and I are really pleased to introduce TRACS to NACIQI. Trans-National Association of Christian Colleges and Schools, which is TRACS is an institutional creditor. The current scope of recognition is the accreditation or PRIA accreditation of Christian post-secondary institutions that offer certificates, diplomas, and associate

baccalaureate and graduate degrees, including institutions and offer distance education. TRACS, or credits, or PRIA credits, 86 institutions in 21 states, two US territories, and four countries. TRACS accreditation provides a link to Title IV funding for 43 of its institutions and link the Title III funding for five of its historically [black] colleges and universities. The agency was originally recognized in '91 and has maintained continued recognition since that time. The agency was last reviewed for renewal of recognition at the spring ['16] meeting with the NACIQI.

Both department staff and NACIQI recommended to the senior department official to continue the agency's recognition, and require it to come into compliance within 12 months, and submit a compliance report within 30 days thereafter, which demonstrates the agency's compliance. The senior department official concurred with the recommendations. The agencies timely submittal submitted a compliance report and both department staff NACIQI recommended that the senior department official find the agency compliant and grant the agency renewed recognition for a period of three years. The senior department official concurred with the recommendation in 2018. The agency submitted its renewal petition on February 1, 2020, and that petition is the subject to the current review. Since the agency's last review, the department has received no third-party comments or complaints.

Arthur Keiser: Thank you, Steve. I'd like to now introduce the department staff, Mike Stein, for his report.

Mike Stein: Thank you. Good morning, Mr. Chair, and members of the committee. My name is Mike Stein and I'm providing a summary of the petition for renewal of recognition for the Trans-National Association of Christian Colleges and Schools, also known as TRACS, or the agency. The Staff recommendation to the senior department official is to renew the agency's recognition as a nationally recognized accrediting agency and require a compliance report in 12 months on issues identified in the staff report, which I will summarize in a moment. These recommendations are based on a review of the agency's petition and supporting documentation, as well as two observations that included a site visit attended with the agency in January of 2020, and a virtual observation of the agency's April, 2020 commission meeting that was conducted online due to the COVID pandemic. The agency has not had any complaints or third-party comments submitted to the department since its last review. As previously mentioned, department staff identified several outstanding issues that the agency needs to address in the recognition areas of organizational, and administrative requirements in distance education.

First, as it relates to organizational and administrative requirements, there are several remaining issues the agency must address. The agency must demonstrate that all current commissioners and appeal committee members have been trained on their responsibilities as appropriate for their roles regarding the agency standards, policies, and procedures, including distance education. The agency must also verify the delivery and attendance of training

related to conflict of interest, or commissioners, peer evaluators, and agency staff. Further, the agency must demonstrate that all appeal committee members are qualified for their roles, and that public members who sit on appeals committees, and the commission have been vetted by the agency, according to its policies and procedures.

Second, the agency must provide documentation, demonstrating it systematically and consistently applies with the accreditation standards related to the review of institutions that offer distance education. The agency provided limited documentation related to the direction it provides to site teams about the agency's expectations for the review of distance education, and department staff on consistencies, and how the agency will view distance education based on the site visit report submitted in the petition.

We believe that the agency can resolve these issues identified in the staff report, and demonstrate a compliance in a written report in a year's time. Therefore, as I stated earlier, the department staff is recommending to the senior department officials to renew the agency's recognition as a nationally recognized accrediting agency at this time, subject to the submission and review of a compliance report due in 12 months, and a review and decision on the compliance report. In the event that recognition is continued following a decision on the compliance report, the period of recognition will not exceed five years from the date the decision on the renewal of accreditation is issued by the senior department official. A representative is here from the organization, and I'll be happy to take any questions that you might have. Thank you.

Arthur Keiser: Are there any questions from the committee to Mike? Sensing none, I'd like to introduce the agency representatives for TRACS, Dr. James L. Flanagan, Chair TRACS Accreditation Commission, President of Luther Rice College and Seminary, Dr. Benson M. Karanja, Vice Chair TRACS Accreditation Commission, President of Beulah Heights University, Dr. Timothy W. Eden, President of TRACS, Dr. Ronald D. Cannon COO and Vice President - Institutional Compliance for TRACS, and Dr. Tommy Pramanik, Vice President - Institutional Compliance at TRACS. And I apologize if I mispronounced your names. We welcome you to our discussion, and I don't know who's going to lead off. It's hard to see. There's not going to be-

Timothy W. Eaton: Chairman Keiser, thank you so much for allowing a Trans-National Association to present to the committee, and we appreciate this opportunity. We also have had a very good working relationship with Mike Stein, and he's been very helpful. His input has been valuable, and so we appreciate that time. I would like to just introduce, and allow them to introduce themselves. And then if you all don't mind, I noticed yesterday that the audio seemed to interfere with the ... I mean, the video seemed to interfere with the audio sometimes. So, I'm going to turn off my video whenever I get to my spoken portion. But Dr. Flanagan and Dr. Karanja, would you all just greet the committee, please?

James L. Flanagan: Thank you for this opportunity to consider TRACS, and we're grateful to be here, thank you.

Benson M. Karanja: Mr. Chairman, and the committee, I'm Benson Karnja, Beulah Heights University, and also vice chair of the commission. It's a great honor to be here today. And we want to assure you that in TRACS, we do the best for our institution. So, thank you, appreciate this time, thank you.

Timothy W. Eaton: I also have with me two of my vice presidents. So, I'd ask Dr. Cannon and Dr. Pramanik, if you would?

Ronald D. Cannon: Yes. Good morning, everyone. Ron Cannon here, Chief Operations Officer for TRACS. It's my pleasure to be with you today.

Tanmay Pramanik: Good morning, Mr. Chairman, and NACIQI members, it's truly an honor and privilege to be in front of you this morning. My name is Tommy Premanik, Vice President for Institutional Compliance for TRACS.

Timothy W. Eaton: Thank you so much. I would like to just begin Mr. Chair, with just a note to you. We have a number of institutions that are newly accredited with other institutional agencies, as well as institutions that do not participate in federal financial aid. However, you will note from the scorecard that even though we have a small number of institutions participating in Title IV student aid, the majority of those students enrolled are Pell Grant recipients. It really is notable that TRACS currently has in its membership seven historically black colleges and universities. We have five predominantly black institutions. We have numerous Title III institutions, and other minority serving institutions, and the recipients to the Pell Grant, and those that are economically challenged, and from our observation, large, significant numbers of first-generation college students. We really believe that Trans-National and her institutions provide an access point for a needed segment of our population.

The TRACS staff, we have nine additional employees that I supervise. Eight are full-time. Two are part-time. We are currently implementing a new data system, more robust to assist us in all the processes of the accrediting agency, partly because of our growth, partly just simply to be more efficient in our processes, and also be able to present the public information necessary for individuals. I would also report that TRACS Accreditation commission focuses on institutional quality and accountability. In the last five years, since our last appearance before the committee, five institutions have been placed on monitoring, nine have been placed on warning, six on probation. The Show Cause action has been used six times, and three institutions were terminated. There were other institutions under adverse actions that withdrew. And we just feel like it's our obligation to certainly meet the standards and the expectations.

So also, knowing what the report is, it's much like to propose and defend that we went through in graduate school. You think that you've submitted sufficient

information, and then the reviewer reports to you where you are deficient. So, we do have a requirement in distance ed, Institutional Eligibility Standard 5.2, that is in our newest accreditation manual. Already, it was put in place, and it was a part of the review prior to that. In our training for distance ed reviewers, basically, we had standards that were equivalent to the C-REC distance ed points that were in agreement for not just our agency, but accreditors across the board.

And in 5.2, we require not only that the institution be authorized for programs and courses via distance ed, but that those courses are equivalent, and that those distance ed offerings meet all applicable TRACS accreditation standards and federal requirements. My commitment to you in retrospect is that we regret that we did not verify sufficiently to satisfy Mike Stein in his review. But our commitment is that in this upcoming year, should you grant us the opportunity, we will present a pattern of evidence that will demonstrate compliance in all the areas cited, both for verification and for the training and evaluation. Thank you so much, and we welcome your questions.

Steve VanAusdle: Good morning, oh, go ahead, Chairman.

Arthur Keiser: Robert ... Steve, your turn. Go ahead.

Robert Mayes: Okay. I'll start with a follow-up question on the distance education, and my colleague, Steve, will ask, and others. So I know you revised your standards in January to clarify that they also apply to distance learning, and I'm glad to see that. One of the things that you mentioned that Mike didn't have to review was commission letters to further demonstrate that that it was being reviewed. Now, we could see that the substantive change report that you provided, showed it was reviewed in that case very well. But it was during the initial and the renewal of accreditation visits that it wasn't clear. So going forward, if you could just reiterate in what you're going to do to make sure it's consistently done? And what training and documentation are you going to provide to ...

Robert Mayes: ... on and what training and documentation are you going to provide to the team members to make sure they do a good job of reviewing distance education?

Timothy W. Eaton: We will just simply go in, obviously we need to better document and actually explain the actions and the basis of those actions. So that's our commitment moving forward. Dr. Cannon, I'll defer to you if you'd like to share additional information.

Ronald Cannon: Actually Dr. Eaton, I think Dr. Pramanik is more suited to speak to the distance education component, if that's acceptable to you.

Timothy W. Eaton: Yes.

Ronald Cannon: Okay.

Tanmay Pramanik: Thank you. Thank you, Dr. Eaton. Going forward, the TRACS Commission action letters will include a verification of distance education compliance with all relevant TRACS standards, including curriculum, faculty, facilities, equipment and supplies, fiscal administration, program length and objectives, admissions, recruitment and other practices, as was stated in Mr. Stein's report. Going forward also the evaluation team reports will demonstrate that faculty who taught via distance education were evaluated duly by peer evaluators, TRACS does provide best practices in our demonstrating compliance document, guidelines for our peer evaluators, which we have already started the process of revising to reflect the 21st Century Distance Education Guidelines, which was recently published by NC-SARA, as well as the NCHEMS. And so going forward TRACS will also provide specific guidance and training to site teams evaluating distance education institutions. We do have a manual that site team peer reviewers, who have the expertise in evaluating distance education are supposed to read, understand and also sign a form that they'll be able to best verify and review distance education programs and courses. So those are some of the steps that we are proactively taking after we have received the report from Mr. Stein.

Robert Mayes: And do you feel confident over... This report is due in 12 months from the secretary's decision that, that will give you adequate time to have evidence to submit in that report?

Tanmay Pramanik: I think so, [Mr. Mays 02:22:29], that's the plan. And we've already started working towards that. Our evaluative criteria actually on page 15 is what the site team members look at when reviewing distance education and we are going to make this more robust. And so we are very confident that within the next 12 months we'll be able to accomplish this and be able to show the department.

Robert Mayes: Okay, thank you.

Ronald Cannon: Mr. Mayes, if you would allow me just to interject here.

Robert Mayes: Yes.

Ronald Cannon: Based on Mr. Stein's report, we actually have already started implementing into our evaluation team reports, careful observation of distance education, application of distance education standards into the various areas. We've actually already revised our template for our evaluation team visits. And so I conducted a visit just three weeks ago, and we incorporated that the new wording to reflect the appropriate review of distance education in those various areas. Certainly that will become more refined as we go through our response process, but we actually take this very seriously and we've actually started taking steps to address that issue.

Robert Mayes: Very good, thank you for those comments. Steve.

Steve VanAusdle: Thank you. Dr. Eaton, you indicated that Mike Stein did a very good job and that you expect some questions on the area that you did not respond to. So this is the opportunity for you and I to engage in a brief conversation there-

Timothy W. Eaton: Yes, sir.

Steve VanAusdle: To see if we get on the same page. I'm specifically talking about standard 602.15a, sections 2, 3, 5, and 6, and that covers competency of representatives, academic administrative representatives, public representatives and conflict of interest. You've already indicated that you're working on evidence and documentation to substantiate that you're doing what we could not find evidence of. Now, I want to compliment you on your standards, your policies and procedures because you followed Mike's recommendation. And I thought they were very appropriate under the circumstances. I would like to focus in on your public representatives on the commission board, just to see if we have a common understanding here. I understand you have 16 commissioners. Three of them are public representatives, two of them are faculty members and the balance are institutional representatives.

Timothy W. Eaton: Yes.

Steve VanAusdle: So how do you ensure that you are bringing competent, qualified people from the public to your board to have the public's voice in your deliberations?

Timothy W. Eaton: Well, first of all... Again, we apologize. We didn't do an adequate job of verifying. However, of the three public representatives, one public representative is a CPA who has extensive experience in student financial aid auditing, and has more than 20 years in that activity. And he serves as public representative. Also, we have a longtime distance ed practitioner, an early adopter so to speak. She was a former director of an educational program using distance ed. And she currently serves as a public member even though... And she is not a part of... The institution that she served was not actually a TRACS institution previously. And then the most recent public member is a president emeritus of an institution, long term president. That institution is not a member of TRACS. And so we have those three public representatives and we've tried to vet them through our nominating committee that serves a committee of... Subcommittee of the commission. And so those individuals were vetted and we will document the [inaudible 02:27:07] and their training as well moving forward.

Steve VanAusdle: So you're saying they were vetted, but you just didn't document the process. So Mike couldn't find evidence which meant to standard [crosstalk 02:27:20].

Timothy W. Eaton: Yes.

Steve VanAusdle: That should be easy for you to correct, right?

Timothy W. Eaton: Yes. We believe we can correct that.

Steve VanAusdle: Okay. These 16 commissioners, I think Mr. Stein only could find evidence of training for three. And I think that again was a verifying process, I assume. I understand your training comes from the nominating committee, the chair of TRACS and your staff.

Timothy W. Eaton: Correct.

Steve VanAusdle: Can you provide evidence to us that there is a systematic approach here for commissioner training?

Timothy W. Eaton: I believe we can. And the process is we assign every new commissioner, a commissioner mentor to guide them through their early time as a commissioner at their first meeting in which... Typically, I mean, that's the Fall meeting. We do provide commissioner training with the chair, myself and the chairman of the nominating committee, as well as various members of the commission as appropriate. And so we do provide that and we will do a better job of representing that. We can verify it with the chairman. He's been there at each training session, but also we can do that with the commissioners as well.

Steve VanAusdle: So your commissioners addressed two appeals here fairly recently. Explain how you appoint appeals committee and what the qualifications are for the people that serve on that, and is there a public representative on that?

Timothy W. Eaton: Okay. Dr. Cannon. Let me defer to Dr. Cannon, but the answer would be yes, there is a public [crosstalk 02:29:23].

Ronald Cannon: Yes. Thank you, Dr. Eaton. Yes. Our policy on appeals clearly requires public representation, faculty representation, institutional representation. When it comes to our faculty representatives, institutional representatives, we generally go to our pool of peer evaluators, ensuring that none of those members serving on the committee have any conflict of interest having evaluated that institution previously. As far as public representatives, within our evaluator pool, we have a number of evaluators and just individuals that we've known through the years and worked with through the years who are not affiliated with any of our TRACS schools and our policy on conflicts of interest and policies on public representatives on the various decision-making body. It does provide criteria for what constitutes a public representative.

I think, where we may have failed and what we intend to correct with our compliance report and in an ongoing way, we will clearly document, we don't want you to have to read between the lines or just to assume that we followed our policy, we're going to document clearly with check lists or whatever other appropriate means. We'll clearly document that any public representative serving either on our commission or on appeal committee meet our own definition and the department's definition of public representative. For us, we

contend that on many of these issues, I would say all of these issues, we are in compliance, our downfall however has been in clear documentation. And that is our commitment to address that in our compliance report. And to make sure that we address that clearly so that this is not an issue in the future.

Steve VanAusdle: That's what we want to hear. So as of this date, do you have resumes and [vitaes 02:31:28] and applications on file for all commissioners and appeal member representatives?

Ronald Cannon: Yes, sir. We have [crosstalk 02:31:34].

Steve VanAusdle: So we can determine if they're qualified?

Ronald Cannon: Yes, sir. We absolutely do.

Steve VanAusdle: Good.

Ronald Cannon: What we haven't done, we have not clearly made the link between the resumes that we have on file. And they're being seated either as a commissioner or an appeal committee member. We will, we affirm our commitment to draw that link.

Steve VanAusdle: And everybody has been vetted for conflict of interest possibilities, and signed off verifying they have none?

Ronald Cannon: Again, yes, we have processes in place for that. And again, I would contend that we follow those processes, documenting them is something we commit ourselves to.

Steve VanAusdle: So we want you to understand our expectations. We want to be helpful. And Mike might see a hole, that I didn't cover, but he can speak to that a moment later. The only other thing I would like to do is point out the work you folks are doing on student achievement. I would like a three minute overview of how have your approach to student achievement and how you've tied it into benchmarks?

Timothy W. Eaton: Typically that's our board policy at 206 and how we monitor student achievements. We do an annual reporting for all of our institutions in which they have to report graduation, retention rates and other accomplishments and measures appropriate to their mission. We also do an interim five-year review so that we don't have an institution go 10 years without a focus look and in which we do evaluations of the institutional eligibility requirements to make sure that they're still in compliance. And so with student achievement for institutions that fall or are having trouble getting close, that's a focus of our training at our annual commission. I mean, commission annual conferences. It also is the staff representatives are responsible for working with those

institutions and should an institution get in what we would consider an area of concern. We'd require an institutional action plan.

That's submitted to the staff reviewed by our personnel. And then we begin to work with the institution, make sure that they are applying best practices in their student success and achievement markers. And also we allow the institution to clarify because first time full-time students is kind of difficult to capture some time. We allow the institution to give us a full view of their student success. What we discover many times is that they're transfer students or students who have stopped out and then start again, that they really are showing well in those areas. But really we focus on bringing those institutions to improve their whole processes.

Steve VanAusdle: So I noticed you had both a quantitative and qualitative measures of students achievement and your quantitative ones are the traditional ones we think about in terms of retention and placement and job et cetera. Talk about your qualitative majors just a minute?

Timothy W. Eaton: Okay. Dr. Pramanik. I'll lean on Dr. Pramanik, since he's the field worker but basically, since we're a religious faith-based accreditor, we actually believe there's more to life than just the numbers. And so we're looking for a holistic approach from the institution. How are they helping that person/student socially or improve themselves, be more persistent. We're looking for qualitative measures that would indicate that they're having success, perhaps job performance internships, so that we're getting some input back on the students. And so I'll defer maybe my VPs would like to step in there, Dr. Cannon and Dr. Pramanik.

Tanmay Pramanik: Yes, sir. Thank you, Dr. Eaton. To answer your question, sir. TRACS requires institutions to demonstrate academic quality by providing some of the following documentation that we review throughout. A comprehensive assessment plan is required and our standards to be fully developed and implemented by the institution. We look at measurable student learning outcomes at the institution are programmatic and as well as course levels. As you mentioned, we have multiple approaches that our site team members look at the qualitative and the quantitative methods, direct and indirect measures for assessing student learning. We look at them, the methodology for faculty led curriculum development, review, modification and the assessment of education programs being offered at that institution. We also look at the summit of analysis of the most recent program review for all of their programs or description of how all of those evaluations have resulted in changes.

We also get a demonstrating a process for the systematic and regular evaluation of all their academic programs, which then of course includes, as you mentioned, an analysis of the accomplishment of program outcomes, retention rates, completion and graduation rates, job placement rates and other rates. So those are some of the things that we look at, our standards very clearly in standard 8.10 and standard 12.2 and 12.3 directly deals with assessing student

learning outcomes at the institutional program and course levels. And so we also do have benchmarks and thresholds as Dr. Eaton has already mentioned to you. So those are some of the things that we are doing in terms of requiring our institutions to demonstrate academic quality and expectations.

Steve VanAusdle: I want to thank you both very much. You have responded to the department and the analyst, Mr. Stein's recommendation on student achievement. So it appears to me you are in compliance there now. And that concludes my questions, Mr. Chairman.

Arthur Keiser: Thank you. Are there any questions from the committee? I do have a question, I don't see any hands coming up. I have a question. Maybe I read it correctly or incorrectly, was that there were a couple of institutions that had lost their accreditation by SACS and it moved over to TRACS. Was that your agency that I read about? And how did you assess that?

Timothy W. Eaton: Yes, Chairman Kaiser. Women institution has a negative action by any agency by policy TRACS will not accept an application from that institution for a period of one year. And so by regulation, we follow that. Also, if in fact the institution proceeds forward after that year, when all is said and done, then I have to... If that institution is successful, then I have to provide the Department of Education, that's when Herman Bounds gets the letter directly from me outlining the procedure, the process and why we found them compliant. Typically, what happen... Well, what has happened in every instance is that the institution lost an accredited status. However, when they come to TRACS, we have a candidacy status of pre-accredited...

A pre accredited status that the institution can seek in that status the institution can apply for and if approved, receive financial aid. And so in those instances, those institutions basically took a step back to a candidate status and then move forward. When an institution has difficulty in some area, it's hard to keep moving forward and making progress. So it really is just recognition that the institution is in basic compliance. So any other... The other men may have a question, but [crosstalk 02:41:28].

Arthur Keiser: I'm sorry, Kathleen. Kathleen, you have a question. I was on mute.

Kathleen Alioto: I just wanted to find out, in your history it says it's a faith that affirms the errancy and historicity of the Bible and the divine work of non-evolutionary creation, including persons in God's image. Do any of your schools teach evolution or if somebody a student or anyone wanted to believe. Some that believe in an evolutionary explanation of [inaudible 02:42:10], would they be included in the life of the community or does everybody have to have that particular belief to be in your colleges and churches?

Timothy W. Eaton: Well, since our institutions... We believe in independent missional institutions. So we do not tell a member that is the original faith statement of the

organization whenever they set up the charter. But we do not dictate a faith statement for member institutions. We have for example, you have the African Methodist Episcopal church has a 200 year old faith statement. It's not our job to dictate to them how to change their faith statement but we do consider it a part of public disclosure that an institution that does have a faith perspective, it needs to be... For truth and advertisement, it needs to be there. And there are all kinds of varieties of perspectives on creation. I wouldn't try to interpret for my membership because they would all be different. I would almost think that there would be 40 or 50 different views and perspectives on that. And they would still hold to a biblical authority.

Kathleen Alioto: Thank you. (silence).

Wallace Boston: [inaudible 02:44:19] you're muted.

Arthur Keiser: I see no further questions. Mike, do you have any comments or observations, you'd like to make?

Mike Stein: Nothing at this time, thank you.

Arthur Keiser: Okay. Then we'll move to the primary readers. And if you would like to make a motion.

Ronnie Booth: Mr. Chairman, our motion will parallel to staff recommendation if you want to pull that off.

Arthur Keiser: Would you put that up on the screen, please, staff. Staff?

Ronnie Booth: We don't need it but if staff have it-

Arthur Keiser: Yeah, we got to have it, on the same as the voting.

Mike Stein: Yeah. [crosstalk 02:45:00].

Arthur Keiser: Is there a second to the motion?

Robert Mayes: I'll second. And this Robert and it's basically to continue recognition with the required compliance report to be submitted by the department within 12 months from the decision of the senior department official. I think [crosstalk 02:45:15].

Arthur Keiser: It should be in front of you now. It's a full paragraph. There's a motion and a second discussion. [Bob Shireman 02:45:27].

Bob Shireman: Yeah, thanks. This is part of trying to understand motions and what they mean and how they work. Robert actually used the word continued recognition, and then a compliance report, the staff recommendation says renew. From the

discussion earlier, I thought that renew meant they're in compliance, but that if you're asking for a compliance report, it means they're out of compliance. And so it should be a monitoring report, but this structure and this is really maybe more of a question for staff in terms of why they structured it this way, it's a renewal, but with a compliance report that comes... It looks like it comes back to the... Does the compliance report come back to [inaudible 02:46:19]? Or it only comes back to the SDO? [crosstalk 02:46:25].

Arthur Keiser: Herman, would you like to respond to Bob's question?

Herman Bounds: I'm going to try and do it really short, Bob. It's a really long answer, but when the new regulations were written, the recommendations that staff can make were somehow written different from what the [inaudible 02:46:45] recommend. So for some reason, in the staff recommendation, which is covered under 602.32, the new regulations remove the word continue. So therefore we had to craft language that would kind of cover what we used to say as continue the agency's recognition. The new regulations only allow us to use the term renew, but with it we had to make sure that it was a compliance report that was required when there a deficiency.

So without taking up a whole bunch of committee time, that's the reason why our recommendation language looks so different. But as Donna explained earlier, in a general sense, if there is a compliance report, that's an indication of non-compliance and that report would have to come back to [inaudible 02:47:42]. Again, I can explain in more detail, but I just don't want to take up a lot of committee time, but that's the reason why our recommendations look a little different. On your side of the house, you still have the language that says continue. So there's basically no change from what the old regulations required, from what now the new regulations require. And I hope that answered everybody, [crosstalk 02:48:05].

Bob Shireman: That is helpful. And I guess I would ask the primary readers in their recommendation, whether they think it's appropriate to do continue with a monitoring report or whether you... Which suggests substantial compliance, but something that needs to be checked by staff as opposed to the renew with the compliance report, which suggests out of compliance. And I don't have an opinion either way, but I wanted to clarify what kind of your thinking and intent is with your motion?

Herman Bounds: And remember Bob, our recommendations says that we're requiring a compliance report. So if your recommendation is that then you would use... Then it would be a compliance report not a monitoring report, if you agree that they're not compliant. So it would still be a [inaudible 02:48:59] recommendation of a compliance report.

Bob Shireman: Right, that's my question for the makers of the motion.

Ronnie Booth: So we could use the word continue-

Herman Bounds: Okay.

Ronnie Booth: With the a compliance report is what you're saying.

Wallace Boston: I'm [crosstalk 02:49:13].

Bob Shireman: Continue with. It seems like the examples we were given earlier was continue... Right, continue with compliance or wait. I'm all mixed up. I don't know. Could we go back and look at it, but I will [inaudible 02:49:34] study this. I just want it to be... Do you feel like they're out of compliance and we need to come into compliance or a substantial compliance?

Arthur Keiser: Bob, the report shows that they are out of compliance and I think it was four or five do not meet.

Bob Shireman: Okay.

Arthur Keiser: Again, the question is, should it be renewed but subject to a compliance report or is it continued [crosstalk 02:50:02].

Bob Shireman: Yeah, I think that's the question.

Arthur Keiser: But then if it's continued well, and it's been found to be in compliance then they're good for a til five years, which is this [inaudible 02:50:11]. The last sentence in the recommendation.

Bob Shireman: It seems like it could be continue... And if the staff didn't do continue only because the regulations don't allow them to say continue. But it seems like it should be that.

Arthur Keiser: So, if we say continued, we'll be out of the regular... We'll be sub-regulatory, I don't know. How do you do this?

Robert Mayes: It might just be best to agree as Steve did in the beginning. I agree with the staff recommendation and go with it versus our motion language, which is a little different and shorter. This department recommendation includes the five years and how that works. And that's what we're trying to say, I think.

Steve VanAusdle: Right.

Arthur Keiser: Okay. Would you accept that, Steve? Is that what you want to do?

Steve VanAusdle: Yes.

Arthur Keiser: Okay. The motion has been amended on a friendly amendment. We have all these friendly amendments. Wow. Any further discussion? I don't see any. We'll call the question then.

George Alan Smith: [inaudible 02:51:07].

Arthur Keiser: What? George, what?

George Alan Smith: Can we just read the motion amendment, we want to make sure... Monica is writing the motion here. So can we just state it once again to be clear?

Arthur Keiser: Oh, the amendment is the staff recommendation. Which is listed right on that sheet, that she has. [crosstalk 02:51:28]. Okay.

George Alan Smith: [inaudible 02:51:31].

Arthur Keiser: Right. Okay. The question is called. We have a motion, [inaudible 02:51:40], Kathleen?

Kathleen Alioto: Yes.

Arthur Keiser: Roslyn?

Roslyn Clark Artis: Yes.

Arthur Keiser: Jennifer?

Jennifer Blum: I'm abstaining.

Arthur Keiser: Ronnie?

Ronnie Booth: Yes.

Arthur Keiser: Wally.

Wallace Boston: Yes.

Arthur Keiser: Jill.

Jill Derby: Yes.

Arthur Keiser: David.

David Eubanks: Yes.

Arthur Keiser: Molly?

Molly Hall-Martin: Yes.

Arthur Keiser: Paul?

Paul LeBlanc: Robert.

Arthur Keiser: Robert.

Robert Mayes: Yes.

Arthur Keiser: You're one of the makers, okay. Mary Ellen?

Mary Ellen Petrisko: Yes.

Arthur Keiser: Claude.

Claude Pressnell: Yes.

Arthur Keiser: Bob.

Bob Shireman: Yes.

Arthur Keiser: Steve.

Steve VanAusdle: Yes.

Arthur Keiser: Okay. The motion passes. Thank you very much TRACS. So we appreciate you being in front of us. Thank you staff. Thank you committee, because we've finished on time. We're actually five minutes early, so I'm going to give you a 15 minute lunch break. We'll see you back here at 12:45. Thank you for moving this forward. (silence).

(silence).

Arthur Keiser: Hello, everybody. Welcome back, I hope you had a good lunch. I've got to make sure I have enough people for [inaudible 03:45:02]. If your camera's off, please turn it on so I can see you. Two, three, four, five, six, seven, eight, night. I need nine, so 10. Okay, we're all set. Welcome back everybody. We are on our second half of day two. Our first agency to look at is the Council on Occupational Education, COE. The primary readers are Jill Derby and Robert [inaudible 03:45:37]. Either one of you, good luck, and have fun.

Robert Mayes: Thank you, Art. So [inaudible 03:45:46] introduce the Council of Occupational Education, COE, [crosstalk 03:45:51]. Ya'll hear me okay? All right. Is a national institutional accrediting agency, its current scope of recognition is for the accreditation and pre accreditation throughout the United States. A post-secondary occupational education institutions offering non-degree and applied

associate degree programs in specific career and technical education fields, including institutions that offer programs via distance education.

They were originally established in 1968 and in '71 the committee became the Commission of Occupational Education institutions. In 1995 the agency formerly separated from SACS, adopted its present name, and began to accredit and pre accredit institutions throughout the United States. COE currently accredits 518 institutions and 46 candidate institutions in 44 states, the District of Columbia, and Puerto Rico. [inaudible 03:46:49] accreditation enables institutions the credits to establish eligibility to participate in title four programs.

Their history. COE was first listed as a recognized agency in 1969. The last full review of the agency was conducted in 2016 in June for an [inaudible 03:47:10]. The 2021 report is the subject of the agency's renewal for recognition. And since the agency's last review, the department has received one complaint and no third party comments.

Their current scope of recognition is again, the accreditation and pre accreditation throughout the United States with certificates, let's see, non-degree and applied associate degree programs, and specific career and technical education fields, including institutions that offer distance learning.

Arthur Keiser: Thank you. The departmental staff is Elizabeth [Daggett 03:47:51], if you would like to make your presentation.

Elizabeth Daggett: Good afternoon, Mr. Chair and members of the committee. My name is Elizabeth Daggett and I'm providing a summary of the review of the petition for the renewal of recognition for the agency, the Council on Occupational Education, or COE. The staff recommendation to the senior department official for this agency is to renew the agency's recognition as a nationally recognized agency at this time, subject to the submission of a compliance report, due in 12 months, and a review and decision on the compliance report.

This recommendation is based on our review of the agency petition and its supporting documentation, as well as the observation of a virtual board meeting in April of 2020, the agency's summer conference and accreditation workshop in July of 2020, and a virtual [inaudible 03:48:48] review in September of 2020. Our review of the agency's petitions found that the agency is substantially in compliance with the various criteria for recognition.

There's one outstanding issue that the agency needs to address regarding the representation of academic and administrative personnel on [inaudible 03:49:07]. We believe that the agency can resolve the concern. We have identified and demonstrate its compliance in a written report within a years' time. The department received one complaint regarding this agency during the recognition period and received no third party comments during this review.

Therefore, as I stated earlier, the staff is recommending to the senior department official to renew the agency's recognition as a nationally recognized accrediting agency at this time, subject to the submission of a compliance report, due in 12 months, and review and decision on the compliance report. There are representatives of the agency here to answer your questions. Thank you.

Arthur Keiser: Thank you, Elizabeth. Any questions from the committee? [crosstalk 03:49:55].

Jill Derby: I have no questions for staff. I have questions for the representatives of the agency.

Arthur Keiser: Oh good, Jill. We'll get to them after our presentation. Bob, did you have a question to the staff? I see your hand is up, if you could pull it down.

Bob Shireman: [inaudible 03:50:12].

Arthur Keiser: Okay. Thank you. We have, representing the agency, Dr. Lois Gackenhimer, Chairman of COE and President of the Academy for Nursing and Health Occupations, Robert Aguis, I assume that's correct, Vice Chairman, COE, Director of Marchman Technical College, Dr. Gary Puckett, Executive Director of COE, and Cindy Shelton, Deputy Director of COE. Welcome, and we look forward to your presentation.

Lois Gackenhimer: Thank you, Chairman [inaudible 03:50:51] staff, and department staff. I do have pleasure of serving as chairperson for COE and have been associated with COE since 1996. I want to thank you for all of your hard work, you do very important serious work affecting many lives and many organizations. Ensuring quality and excellence is often not easy, and I'm sure that your decisions weigh heavily on your minds.

As you heard, CEO is proud to say that we are celebrating our 50th year anniversary. And in telling you a little bit about our agency, we'd like to mention our core values of trustworthiness, transparency, accountability, commitment, flexibility, innovation, collaboration, and responsiveness. The mission goals and objectives of the council are reflected in the conditions and standards required of each COE accredited institutions, and that is to offer public assistance, public assurance, I'm sorry, that accredited educational institutions provide quality instructions in career and technical education that facilitates learning by students meeting the needs of the labor market, to provide guidance to institutions for continuous improvement of their educational offerings and related activities, and to promote high ethical and educational standards for career and technical education to enhance public understanding of career and technical education providers, and of the value would be education and the credentials offered by these providers.

You can see by our dashboard that we are a diverse organization with approximately half of our institutions public, and approximately half private, both for-profit and not-for-profit. And in describing our diversity even further, I might note that our institutions represent apprenticeship programs, military federal schools, job corps schools as well. And our commission reflects the same in the membership profile [inaudible 03:53:31] a public, private, federal, registered apprenticeship, job corps commissioners, as well as consumer commissioners. And in closing, please allow me to express my sincerest gratitude for your thoughtful consideration of COE's petition for recognition. Thank you.

Gary Puckett:

Thank you, Lois. My name's Gary Puckett, I'm the Executive Director of the Commission, and I've been in this role 17 years, and it's been my pleasure to meet with the group before several times. As we were sitting here waiting for the meeting to start, there's a lot on the line for our accrediting agencies [inaudible 03:54:20] and I was trying to compare how it feels to be on this side [inaudible 03:54:25] I could think of that might be similar is sitting in a waiting room in a maternity ward, trying to see what's going to happen, or sitting in a space shuttle waiting for the launch to take place. Or I remember when I did my final defense, I don't know how they do it now, I was sitting outside waiting for the committee to the side. So this is an important occasion and we recognize it so just wanted to let you know how it feels to be on this side.

I'd like to thank the three staff people that's worked with us all the way. So we started out with Valerie [inaudible 03:55:12] and know her, and she took us to third base and then got promoted. And then we have Elizabeth who made the report and she took us to home, and then we spoke with Herman two or three times during the way. So I know you know the quality of these staff and so I know you should find comfort in the work that they did. In fact, I don't really see any need for any questions after they went through what we presented, but thank you. And I wanted to express an appreciation to the two readers that's focused on it, [inaudible 03:55:50] and Chairman Kaiser and all of the others.

I wanted to say, Cindy and I are in Atlanta, and Lois and Rob are in Florida, our chair and vice-chair happens to be in Florida so I'll have how glad we have this technology. Although I wish we were in person, it makes it a little easier to communicate, but again, thank you so much. And Dr. Gackenhimer did already point out that we are a diverse group and we started out as a commission of SACS, and some of our principles and philosophy and ideas was handed down from them and we've evolved over the years and made several changes. But we started out as a commission of SACS and in 1995 separated in order to become a national accrediting agency.

Some of you, I don't know if anybody on the call is old enough to remember, back in the '60s you may have read about it, the federal government funded what used to be called vocational schools. And most states have a series or a set of vocational schools [inaudible 03:57:09] different way, and there was no accrediting body for those. But SACS was a forerunner in developing that, and so

we started out accrediting public technical schools, as Lois said, about half of them are still in our membership.

But now that we are a national agency or institutional [inaudible 03:57:33] national territory, we accredit several systems across the country of what used to be vocational schools. And many of them now have become technical colleges. And she pointed out the diversity that we have. And we do have private for-profit and non-profit institutions. I guess our latest contingency of schools of what's called registered apprenticeship. And it's about maybe 25 or 30 of those, and those are union affiliated or [inaudible 03:58:12] funded type institutions that prepare people for the workforce.

So all of our schools, including the public, and the private, and the job corps, and another group I like to brag about is the federal institutions, we have about 40 federal institutions, including the Navy Technical Training Centers, about 12 Department of Defense schools that train civilians. So we have about maybe 12 or 13% of our schools that are accredited strictly for quality assurance, not for title four.

Arthur Keiser: Dr. Puckett, could you move closer to your microphone, some people are having a hard time hearing it.

Gary Puckett: I'm sorry. Does that help? I'm sorry. Can you hear me now? Okay. So anyway, we have several schools, I just wanted to point that out, and I want to acknowledge the one finding that was found by the staff. And at the time it was discovered I was saddened by it because we tried so hard to cover every base. And so admit we're deficient [inaudible 03:59:32] fault, and it was something that hadn't been communicated enough through the staff. We'll be having a commission meeting in September and the creation of the appropriate policy will be on the agenda. We have a policy for it, but it was not [inaudible 03:59:51], and in practice, we've already implemented [inaudible 03:59:55] having representations of administrators and academics on our teams.

Technically some of the folks that were [inaudible 04:00:10] have some administrators that used to be teachers, and they don't lose their education and their skills when they become an administrator. So with that, I wanted to say, thank you, and not brag on the commission too much more because I figured we'll get a chance to do that in responding to the questions.

Arthur Keiser: Okay, Jill and Robert, do you have questions?

Robert Mayes: Jill, go ahead if you want to start. Jill, you're on mute.

Jill Derby: Thank you. Two lines of questions really. The first has to do with the citation that our staff noted and having to do with the composition really of your site team and appeals panels, particularly concerning academics and administrators. I wanted to ask a bit about that whole process that you employ in choosing

people to be representatives on the site team visits and appeals panel as well, and what sort of vetting process do you go through? And particularly in terms of a conflict of interest concerns, can you say more about that, your vetting process?

Gary Puckett: Yes, ma'am. We can just take the separate categories. We have for...

Robert Mayes: We can't hear you very good. There you go.

Gary Puckett: For our appeals panels, I'll start with that. The commission has a nominating committee and individuals from the [inaudible 04:02:08] can nominate individuals to serve on the appeal panel and ask what classification they are being nominated for. So they first are vetted by a nominating committee and then they're elected to the appeal board at our annual meeting where the delegates all meet once a year.

And then when we have an actual appeal, we make sure that we have public, academic, and administrative representation, and we have a special training session before every appeal that we have to make sure appropriate [inaudible 04:02:50] process procedures are in place. On the commission we have, because of the ratio of seven to one, and we have 20 commissioners [inaudible 04:03:01] in the past here, which [inaudible 04:03:04] three public members, they're also nominated by the membership and placed in nominations [inaudible 04:03:12] to be elected [inaudible 04:03:14] meeting. And then we have orientation for our new commissioners. [inaudible 04:03:21] two sessions before they have their very first commission meeting, and throughout the year we have special presentations on matters such as [inaudible 04:03:35].

And so it's an ongoing... I guess simply said, they are nominated by the schools, elected by the membership, trained in orientation, and then they have inservice training as they go. Our team members also have to be... Generally are nominated by team leaders of folks they meet in schools, or by the staff, and we have special team member and team leader training that we offer at least twice a year. We have a summer conference and we have an annual meeting so we do that in special workshops and meetings. Hope that it's what's you're asking.

Jill Derby: That's helpful, thank you. On a different [inaudible 04:04:33], I wanted to ask you, I noted in your June, 2021 commission meeting that you had a considerable number of substantive change requests, and which of course, given that we were in a period of COVID, a period of lockdown and quarantine, and it made...

Jill Derby: And it made site visits difficult. And it occurs to me that you probably granted a lot of change of status, substantive changes to programs that requested it because of the challenge of holding classes in person. And given that many of your institutions have a focus on technical skills on hands-on competencies, I'm wondering about how you managed given that I'm going to assume you granted many more substantive changes for distance ed, which is in your scope. And

then what was the process that followed, given the inability to do site visits? And given the inability of many of these institutions to hold in-person classes, the necessity of doing distance education, or maybe hybrid? I'm curious about how your agency handled monitoring things like student achievement? How you could feel assured of the quality of programs that I'm assuming you weren't able to visit in person? And I'm assuming new programs that turn to distance education out of necessity because of the pandemic. Can you speak to that?

Gary Puckett: Yes, ma'am. We did have a large number of schools based on the department's guidance.

Arthur Keiser: Dr. [inaudible 04:06:41]. Could you please turn up your microphone or your sound because it's really hard for some folks to hear.

Gary Puckett: We have a volume control on here? Okay.

Lois Gackenhaimer: I can hear.

Gary Puckett: Are you okay Lois?

Lois Gackenhaimer: Yeah.

Gary Puckett: You're not.

Jill Derby: I can hear. Can others?

Arthur Keiser: Go ahead [inaudible 04:07:09]. Go ahead.

Gary Puckett: We had a large number of schools that did apply for distance education based on the emergency instructions from the department. And we decided that we should not let that go on indefinitely without requiring them to submit a permanent application provision for education, which is basically a two-step process. And so we put out a memo that all institutions that have the distance temporary distance approval would have to apply by June the 30th so that they could be on our commission meeting because it would be a subject change for the school we'll have the first time, the first distance education program. Now we already had a provision for distance education programs to have a virtual visit.

So the staff thoroughly, thoroughly examined the applications. Actually does a virtual visit on the computers and talk to the school. And so we would expect that when we visit the school in person for the next visit, after the pandemic, that we will review that again. So you are correct that we did have a large number of changes. Now, some of those... Some of that is because we required the institutions to submit it as an initial application in case the pandemics continue. Some of those now have gone back to the class, then we'll discontinue the distance options.

Jill Derby: And you feel that your practice of the virtual site visits, you extended that further given the numbers that you had requesting the distance education. Can you say more about that?

Gary Puckett: Could you clarify? I'm not sure I follow.

Jill Derby: Virtual site visits.

Gary Puckett: Yes. Well, we use team members for that. And our staff, and they looked at the institutions' platform and the procedures that they're using for distance education and the curriculum, and go through the process of make sure that all of the security measures are in place, that the curriculum as is appropriate, that the institutions are able to verify who's actually enrolled and similar to what you would do on the actual campus. Even if you were on the campus, you still would have to do the similar procedures because the students would be in another place anyway. So it would be not unlike being on the campus itself, except you could look at some of the servers and equipment and talk with people on the site.

Jill Derby: Thank you. And just a final question for you. Do you track employment outcome for your students, for the students and the institutions you accredit?

Gary Puckett: Yes. Ma'am. If you will permit me, our internal specialist here is Cindy Sheldon, our deputy director, and she's our expert and I'll let her speak to that.

Cindy Sheldon: Hello, Dr. Derby. I'm going to try [inaudible 04:10:57] even hear me clearly?

Jill Derby: Yes, I can.

Cindy Sheldon: We do collect completion, placement, analyze teacher statistics for every program Dr. Derby. And we would expect no less from a distance program as we would for a traditional or hybrid problem. In fact, the only we don't distinguish between the two. We collect data on all of it, all of it, for all programs, all institutions. Our benchmarks are currently 60% completion on every program. 70% placement and 70% licensures. So those are bright lines, benchmarks expected of every program, regardless of the delivery mode.

Jill Derby: You said 70 for each of those categories, is that right? 70%.

Cindy Sheldon: 60% for completion [crosstalk 04:11:50].

Jill Derby: 60?

Cindy Sheldon: And 70% placement and licensure.

Jill Derby: Okay. I know that Jennifer included a lot of questions yesterday about that 70% benchmark. So I won't extend that conversation because we've already been

through that and know that it's complicated, but I appreciate knowing. So 60% is your completion rate, is that right?

Cindy Sheldon: That's correct.

Jill Derby: Okay. Well, why is that 60 rather than 70?

Cindy Sheldon: Well, after the commission in 2011, did a five-year study on all of our successful completion, placement and license. And after the five-year study, data was collected and actually a review of similar accreditors, they determined that 60% was a reasonable benchmark for completion for the institution based upon the data that was coming in from about that team, different occupational areas. So you can imagine there's a quite a bit of variation between occupations and actual job title. So the commission based on their professional experience and expertise, and with that five-year study and comparables from other agencies, determined 60% was the reasonable benchmark for completion. I am not hearing any Dr. Derby. I'm sorry. There we go.

Jill Derby: Thank you. I appreciate your answers. That completes my questions.

Cindy Sheldon: Thank you.

Robert Mayes: [inaudible 04:13:39] I'll go next.

Arthur Keiser: All right Robert.

Robert Mayes: So I'm going to just want to focus back on the issue or that that came up in the staff review analysis, which again was [inaudible 04:13:51] this a little bit. So it was the site visiting teams. You have a good roster system that categorizes between academic and administrative and public, but it was found there wasn't a policy. And there were teams that didn't have both academic and administrative individuals on there. So if you could just kind of clarify, what steps have you taken are you going to take to ensure site visiting teams have those two personal on there that's required?

Gary Puckett: Well, honesty is the best policy. We already had the software and the selection process in place. And I wished that I could [inaudible 04:14:35] some kind of an answer if the lab aren't doing it. I actually, after I got the surprising news, I had a meeting with staff and I actually said, "Are you aware that we need to be having academics and both administrators on the visits?" And they were not. I had really been... And this is not an excuse, but it's just the truth. I've been focusing so much on commissioners and appeal panels, and other kinds of matters that it was just an oversight. But we already code our site members as administrators, academics, and public members. We have public members on this thinking as well. So we already have the system in place. They're already coded. It's not followed through on it.

And our policy, we actually had a policy, and I don't know why it's worded this way. But it says that on our visiting teams, we will have administrators and our academics. So I've got that on the agenda for our September commission to correct that. And instructions have already been given to make sure the selection is in place now. So the mechanics and the software and qualified people are already in place. And we evaluate people based on their bio's that's their qualifications, that's the type of person they are. And as I said earlier, some can serve both roles. So we think we're covered on our mission and field boards and the field panels, but we just have to put in... We just have to apply what we already have in place, and it's already in effect.

Robert Mayes: Well, I didn't have the policy kind of well... And it was more so just a statement that's on your roster. I think one thing that was brought up is it needs to be a formal policy, which sounds like you're about to do and have in a policy form. But even when the teams are just two people, it has to be those two categories covered, as you know. I think that's all I needed to ask about the training. Yep. That's all from me y'all. [Inaudible 04:17:13].

Arthur Keiser: Thank you very much. I don't see any questions in the queue. I do now. Bob?

Bob Shireman: Gary, thank you for the presentation discussion. I wanted to start where the clarification of something that was actually brought up this morning about the scope and role of the advisory committee. There were actually... The chairman made reference to some emailing among the advisory committee members. And there has been some of that. It came up actually because a complaint letter regarding APA was distributed to company members, and that prompted the discussion of, "What are we allowed to consider as advisory committee members?" And ultimately, I actually, after the lawyers kind of gave us some feedback, I wrote a summary which the staff said was accurate. And so just for your understanding as a committee, as a agency before us today, and for the rest of the advisory committee, a reminder that what that summary was, was one that there is no restriction on the information that we can consider in our deliberations [ethnicity] meeting.

And if new information prompts us to make a recommendation that differs from what staff report says, that is perfectly fine. So if Kathleen wants to bring up evolution versus creationism, and somehow that becomes an issue that we decide is worthy of our attention, we could do that if we wanted to. I'm not advising that we do that. But second, if we were to make a recommendation that was on a topic that a staff had not raised, that actually gives the accreditor and the staff a 10 day window to provide a response new information to the senior department official.

And in the face of that information, that would give the SDO the benefit of both in the CTS point of view, as well as the accreditors response. Which helps to address any of the due process concerns that might come up. The third point was that, that said we as advisory committee members, need to be aware that the education department lawyers do worry appropriately about a due process,

legal challenge, and everything that ends up happening by the senior department official and the secretary. It does not mean that we are in any legal jeopardy as members of the advisory committee, by bringing something up. We're not violating something just by doing that. It would be the department's lawyers who might advise the SDO that probably best not to use this information to make a decision. Maybe it would be better to do this and that compliance report through the other the 602.33 process.

So all of the worrying about exactly which information can be brought up when and due processing and all of that, is something that should mostly be happening at the SDO. The staff attorneys side of things. We, as advisors... As an independent advisory committee, are tasked with bringing our knowledge and experience and information that we might find from wherever to bear on our consideration of an accrediting agencies our recognition. In that regard, I want to ask one question, if I can. And this is relating to Florida Career College. As Florida Career College has been under at least one, maybe more lawsuits for some time relating to predatory practices, focused on African-American students. And your agency was quoted more than a year ago as saying that this was being investigated. What can you tell us about the process of that investigation? If something has been completed? What action if anything that has been taken?

Gary Puckett:

Yes, sir. I'll be happy to. And I anticipated this question. And prior to the meeting, a few days ago, I did some checking incidentally. I did report the matter when I was first... When a certain reporter called me about it, I did in fact contact my staff analyst at the time and explained the concern. And so when we have a concern, Caleb if you'll allow me just to tell you what steps we took. When we do get curious, or what might be damaging information about an institution, we generally put them on hold. We call notice of apparent patients. And the key word being apparent. So we put the school on notice and ask for a response and took the information to the commission. And I don't have... I didn't print a copy of the actual commission letter, what commission action was, but it was to continue the school on notice, ask for quarterly reports.

And what's status is it is as is it in with regards to the court? And my understanding is that for some reason, the decision right now is continued to not stay. Then we are following it. And I certainly agree with you. If the charges are true, I use the word if. We're talking about a serious matter. The complaint is basically involves, is in my understanding to students at this point. And so we would normally defer when an issue reaches a court level. We would normally defer to the court to make the decision, but we are getting quarterly responses, just got one. Just had a discussion about it in June and are following it very closely. And we have... Of course we have legal advice assisting us with it as well. So it's a lot. Hope the matter's proven to be... Hope it's cleared. And I don't know that all to go into many more since it is in court and sort of leave it at that. But we, I promise you we're following it and checking.

Bob Shireman: Okay. And maybe the lawsuit and some of the issues around it involve questions about predatory recruiting and job placement fraud, which of course are our topics, not just for the court, but also for you as an accrediting agency. Is that something that you are looking into or would look into and normally in this kind of a situation where that kind of information has been brought forward?

Gary Puckett: Absolutely.

Bob Shireman: I'm sorry. So you're saying that you are looking into that?

Gary Puckett: Yes. Yes.

Bob Shireman: All right. Thank you.

Arthur Keiser: Sorry [inaudible 04:25:43]. We may have lost our promoters. Bob if you're done. Dave, do you have any questions?

David Eubanks: I have two quick questions. I think first, thank you for the presentation and for your candor and response. I have a question about one of your standards. It's not sure the full number, but it's number 18. And it says, admissions requirements offer reasonable expectations for successful completion of the occupation programs offered by the institution, regardless of the method of delivery. And my question is very specific. When the peer reviewers are evaluating that standard that, in plain language, students should have a fair chance to successfully complete, do they actually look at the completion rates in historical completion rates and compare that to what the institution is saying and how expectations?

Gary Puckett: So do own site reviewers compare the outcome measures in determining if it's fair? Is that what you're... Is that, am I restating it okay?

David Eubanks: Yeah. I think so. So if the institution, so admissions requirements do actually provide a reasonable expectation of successful completion, I would think that that would translate into successful completion rates. And I understand that peer reviewers have a lot to do, and they spend a lot of time looking at policies and so forth. So my question is, do they take that factual data into account when they're analyzing that standard? And you may not know the answer, I'm not sure.

Gary Puckett: Let me. I'll ask Cindy to comment on it too. But one thing, just matter of fact, most of the... Some of us public schools that are overseen by state agencies set those admission policies for them. Of course, the private schools can set their own. But on top of that, let me let Cindy help me answer this question.

Cindy Sheldon: I guess sir, I just wanted to... First of all, you can hear me clearly sir?

David Eubanks: Yes.

Cindy Sheldon: Our team member and team leader certification include this very kind of scenario where admissions policies are looked at. Annual reports of the institutions since the last reaffirmation, or since the last full accreditation cycle are made available to our team members and leaders. And all team members are encouraged to become very familiar with annual week 40 data that the school submitted which took place [inaudible 04:28:48]. As well as admissions policies, what are the prerequisites that program? What are the conditions of admission for that program? Which can vary sometimes from program to program. But generally institutions operate off of one generic admissions policy. But yes, annual reporting data is available for every team members and team member training does stress the importance of being familiar with that annual reporting data, as well as the institution's website. Where institutions might make claims to completion rates, placement and licensure. So yes, all of that information is available to team members when they visit an institution.

David Eubanks: Great. Thank you. I'm going to interpret that to mean that you would agree that that statistic would be a reasonable piece of evidence-

Cindy Sheldon: It is.

David Eubanks: Applied to that. Yeah. So my other question is just simply, if a student applies, attends for awhile takes out loans, but then doesn't complete and now has long debt and so forth, would you consider that a bad outcome for the student?

Cindy Sheldon: Well, I will. I would for the student's own personal success. Yes. That might be a bad outcome, but the judgment on whether an institution is failing the students somehow that could be a whole other conversation.

David Eubanks: Sure.

Cindy Sheldon: We do encourage our institutions to follow up with students who exit their programs and do not complete that they have a very robust follow-up plan in place so that they can track down students who did not complete your program. Many of our institutions to have what we call exit points within programs. Students who are for whatever reason, unable to complete your program, might be able to earn a credential of some type from a program that that would give up a document marketable skills for the person. So still employment in the field may be a possibility with those lesser than a diploma or degree credential that's... Many of our institutions have that option for students. So even though a program, a student may not complete all required hours of a program, that doesn't mean that they are not marketable in that field. And that's where we also stress a lot of activity for institutions to help students find placement in the field with what skills and knowledge they gained from the program. Even if it isn't at the highest level they could have achieved.

David Eubanks: Thank you very much. That's very helpful.

Cindy Sheldon: Thank you.

Arthur Keiser: I'm sorry. I did cut... My computer cut out, but I am back. So hope I didn't miss too much. I don't see any other questions. Oh, Jennifer, I have a question I see.

Jennifer Blum: Just a quick follow-up because I was listening to David. So I just have a quick follow-up on the point that David was making, do you have a... You might not know the answer to this, but you're from an accredited, or maybe I'll answer it from a credit or asking from a crediting standpoint. From an accrediting standpoint, do you find that your students have that the students, that your institutions are able to have their credits transferred so that if they're not completing, to the question that David asked, is one scenario that the credits are transferrable to another institution, which doesn't necessarily demonstrate success, but I'm just curious.

Gary Puckett: We have several institutions that held articulation agreements for four years. Many of our programs that... Some of our technical schools offer the majority of the curriculum would not be transferable kind of a program. Mainly if you took, for example, those that have plumbing and the associate degree program we see or the actual stage have credits for ability, especially in the academic parts of it and some of the technical. So many of them... And I've worked with... I won't call the name, our culture's regional accreditor to what we used to be called regional. We actually had some joint meetings together with some of the schools in certain states to discuss this. So there's really, there's no prohibition against it. And it happens often if it's an appropriate transfer. Sometimes students will be upset because they took welding and they want to switch and major in psychology. But yes, ma'am. We do have several schools who do accept credits and depending on the topic they took.

Jennifer Blum: Okay, that's great. Thanks.

Arthur Keiser: Are you muted? Well, again, I see no more questions. I therefore bring Elizabeth [Baggett 04:34:22] back to respond to the commission's presentation comments.

Elizabeth Daggett: I have no further comments.

Arthur Keiser: Thank you. Well, there are no third party commentators. I bring Jill [inaudible 04:34:42] or Robert to make a motion for me.

Jill Derby: I'll go ahead with that [crosstalk 04:34:49]. I moved that to renew the agency's recognition subject to the submission of a compliance report due in 12 months and a review and a decision on the compliance report. In the event, the recognition is continued following the decision on the compliance report, the period of recognition will not exceed five years from the date the decision on the renewal of accreditation is issued by the senior department official.

Robert Mayes: Second.

Arthur Keiser: Second by Robert. I assume that's the one you went to that's posted up on the panel-

Jill Derby: That's correct.

Arthur Keiser: The staff recommendation. Okay. Any comments, concerns, questions, Bob, do you have your hand up or is that from before?

Bob Shireman: Yes, I am concerned about what seems like an inadequate response on the Florida Career College issue, which has been in the public domain and something that the agency has known about for well over a year. And have not been able to tell us whether they've actually investigated. What the results of the investigation has been? So I am concerned about their enforcement of their standards. I think what stout sounded initially like an answer that was, we're waiting to see what the court does is not adequate. We obviously want accreditation standards to be a higher standard than outright fraud and criminal activity. And to actually meet that the integrity and quality that is in the name of our advisory committee. I don't remember whether the compliance report items includes the enforcement of standards question. But if not, I would ask that the staff include that in the scope of the compliance portion of the motion.

Arthur Keiser: Bob, are you offering that as an amendment?

Bob Shireman: I don't think it needs to be an amendment because the items are not listed. They're not listed in the actual motion. It would just be that the staff's understanding of the items that we would anticipate them looking into in the context of the compliance review, much as the explanation on the last agency about it [crosstalk 04:37:30].

Arthur Keiser: Herman comment. And then I'll comment. Go ahead. Herman. Herman. Your hand is up Herman.

Speaker 11: He's got [inaudible 04:37:42]. He's coming.

Herman Bounds: I'm coming on. I had to move. No, I just wanted to say that, we review the complaint on Florida Career College and we've also asked for some continuing updates from COE. So I just wanted the committee to know that we have already reviewed that particular complaint.

Bob Shireman: So I'm sorry. Are you saying that that is within the scope of the compliance report or it is not within the scope of it?

Herman Bounds: No. No. We reviewed this separately from their petition for recognition.

Bob Shireman: I'm sorry. I guess that is, can the compliance report include every view of the status of their addressing that complaint and any other relevant complaint that might come up in terms of enforcement in the context, within the scope of the compliance report?

Arthur Keiser: Bob, if I hear correctly, the staff is on top of it and is asked for a follow-up on that. However, that is not of the compliance report. So if you want to include in the compliance report, you would have to make, ask for either a friendly amendment by the makers of the motion, or it would have to offer an amendment to be voted on.

Bob Shireman: All right. I will make it last for a friendly moment to include enforcement within the compliance report.

Arthur Keiser: Is that accepted by for the motion or, and the person who second it?

Jill Derby: Yes, accepted by me.

Robert Mayes: What just question? [inaudible 04:39:26] we get the wording right. And what standard we're referring to and what would be their enforcement Bob that you're asking for?

Bob Shireman: What I'm referencing is the... Whatever the CFR enforcement criteria is-

Jill Derby: 602.20.

Bob Shireman: 602.20. So it would just... I think it'd be a matter of adding after compliance report, including 34 CFR, 60220.

Robert Mayes: Okay.

Arthur Keiser: You accept that as a friendly amendment, Robert?

Robert Mayes: Okay.

Arthur Keiser: You accept that as a friendly amendment, Robert?

Speaker 13: I'm fine with it as well.

Arthur Keiser: Okay. I have a concern though, Bob, and maybe you can help me here. You have almost 500 and some schools that this institution accredits, and you're picking on one particular incident. If we have to do that, when we review WASC, we'll have the issue of both Stanford and USC. When we do SACS, we still have the issue with UNC. Are we going to be getting into the... from looking at a large accreditor like this as to each action that they take or each action they don't take. And... is that not getting into the weeds on this particular type of institution and agency?

Speaker 14: We are only capable of acting on specific information. This is specific information that we have. It's [inaudible 04:40:53] we're already looking into it, both the department and the staff, and so I don't see any harm in including it.

Arthur Keiser: Okay. I just want us to be consistent and that's really important for the commissions to understand how we respond and our... yeah. Okay. Any other discussion on the motion? Is that you Jennifer? Your hand up or...?

Jennifer Blum: I just want to make... I actually tend to agree with Bob on this and I just had a really specific request for the future of the staff, but I think they're making it right now with regard to this one. When we have compliance reports and monitoring reports, and this question was asked to me with the last agency, I think the motions need to include what the... not just the motion on a compliance report or on a monitoring report. But I mean, this is... The staff asked me this question last time, and now I'm asking back.

I think... what needs the motions need to say what we're asking for. What we're... because that way it's transparent to the public. It's also for us, we know what we're voting on in terms of what the compliance report is for. I know that's in the summary of the report, but I think it's better to also be in the motion. So I'm just... they're starting to make that change, too. So it's... right now I see that you're listing 602 20, but it's also that if I remember, the underlying compliance report is also for the visitor and the site, whatever the standard is for the site visitor piece. So just a request on this motion and future motions when we have compliance reports or monitoring.

Arthur Keiser: Thank you, Jennifer. I hope everybody understands and we'll get the staff... we'll get Monica to get that fixed and put it in the recommendation. Are there any further discussion? Sensing none I'll call for the roll call and the vote. Kathleen? Kathleen, you are muted, I assume. Hello, Kathleen. Welcome back. Rosalyn?

Roslyn Clark Artis: Yes.

Arthur Keiser: Jennifer?

Jennifer Blum: Yes.

Arthur Keiser: Ronnie? Ronnie? Ronnie? Wally?

Wallace Boston: Yes.

George Alan Smith: [inaudible 04:43:12]. Ronnie's late.

Arthur Keiser: Jill?

Jill Derby: Yes.

Arthur Keiser: David?

David Eubanks: Yes.

Arthur Keiser: Molly?

Molly Hall-Martin: Yes.

Arthur Keiser: I think I heard a yes. Paul?

Paul LeBlanc: Yes.

Arthur Keiser: Robert?

Robert Mayes: Yes.

Arthur Keiser: Mary Ellen?

Mary Ellen Petrisko: Yes.

Arthur Keiser: Claude?

Claude Pressnell: Yes.

Arthur Keiser: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10. Bob? Yeah, there's...

Bob Shireman: Yes.

Arthur Keiser: And Steve?

Steve VanAusdle: Yes.

Arthur Keiser: Okay. We have a majority of...

Speaker 16: [inaudible 04:43:49].

Arthur Keiser: Motion passes. Again, thank you to the members of the COE staff and commission. Appreciate your work. Thank you, committee. We'll move to the next recognition, and that's the commission on accrediting of Association of Theological Schools. Our primary readers are Wally Boston and Bob Shireman. Gentlemen, it's yours.

Wallace Boston: Bob?

Bob Shireman: Yes.

Wallace Boston: Okay, there we go. And it was already unmuted. Yes, we are considering the commission on accreditation of The Association of Theological Schools. The current scope of recognition is the accreditation of theological schools and seminaries as well as schools or programs that are parts of colleges or universities in the United States offering post-baccalaureate degrees in professional and academic theological education, including delivery via distance education. This agency has been recognized by the secretary since 1952, which by the way, is when secretarial recognition began after predatory schools took advantage of the first GI bill. Currently the COA of ATS, which is there's two entities that [inaudible 04:45:18] commission on accreditation is basically a subsidiary of The Association of Theological Schools that credits 225 schools in the United States, [inaudible 04:45:29] 126 institutional accreditation and 99 have programmatic accreditation.

Nicole S. Harris: [inaudible 00:05:51]... time to make a comment?

Herman Bounds: I just want to remind everyone when you look at your... when you look at the final staff report, the staff recommendation is there, but then the report also identifies the issues and problems. For some agencies, what we have in some cases, maybe [inaudible 04:46:13] that make that recommendation box extremely long. So you'll see our recommendation, but down below the issues of problems with that identifies what the non-compliance issue is. [inaudible 04:46:25] bring that up again to everyone.

Nicole S. Harris: Can everyone hear us?

Arthur Keiser: Thank you, Herman. Go ahead, Nicole.

Nicole S. Harris: Okay, thank you. Good afternoon, Mr. Chair and members of the committee for the record. My name is Dr. Nicole S. Harris, and I will be presenting information regarding the renewal petition submitted by the commission on accrediting of The Association of Theological Schools, also referred to as ATS or the agency, which is a Title IV gate-keeper for freestanding institutions, colleges, or seminaries of theology. The staff recommendation to the senior department official is to renew the agency's recognition for five years, and there are no remaining issues with the petition. The staff recommendation is based upon my review of the agency's renewal, petition, additional information requested, supporting documentation, and agency file review conducted in February and April of 2021, as well as observation of a virtual agency training and site visit in September and October of 2020.

During the current accreditation cycle, the department received no third party comments regarding the agency's renewal petition and no complaints. Therefore, and as I stated previously, the staff recommendation to the senior department official is to renew the agency's recognition for five years. Agency representatives are present today, and we will be happy to answer the committee's questions. This concludes our presentation. Thank you.

Arthur Keiser: Thank you, Nicole. Are there any questions for the staff prior to the agency? No? I'd like to introduce Frank M. Yamada, the executive director of ATS, Tom Tanner, the director of accreditation, also at ATS, and Stephen R. Graham, the strategic director of context and continuity at ATS. Gentlemen, it's your floor.

Frank Yamada: Thank you, Mr. Chairman and members of [inaudible 04:48:44]. My name is Frank Yamada, and I have served as executive director of the commission on accrediting of The Association of Theological Schools since 2017. I'm joined today by my two colleagues, Tom Tanner, director of accreditation, who also serves as our staff liaison to the department, and Stephen Graham, strategic director of continuity and context. Dr. Graham will be assuming Dr. Tanner's role as liaison to the department after this meeting, since the latter will be retiring later this year. I also share regrets from the chair of the commission, Todd Laginess. He has very recently been reassigned to an important new pastoral position in his diocese by his Bishop, and the substantive pieces of his transition are happening at this time. Want to thank Herman [inaudible 05:11:37] and his staff for their excellent work in this process.

I would especially like to thank Dr. Nicole Harris for her thorough and tireless work in reviewing our petition for the renewal of recognition. I also want to note that we are the only accrediting agency focused exclusively on graduate theological education, and we are both proud and humbled by that responsibility. We accredit some 260 seminaries and schools of theology in North America, 225 of which are in the United States, that enroll more than 78,000 students. Our agency is quite ecumenical, representing Protestant, Roman Catholic, Eastern Orthodox, and Jewish perspectives. We are pleased to be with you today and we'll do our best to respond to any questions you may have for our agency. Thank you.

Arthur Keiser: Thank you, sir. Any questions from the primary readers? Bob?

Bob Shireman: Yes, thank you, and thank you for your brief introduction there. Yesterday, I brought up an example from some of the materials you presented relating to some of our discussions about our subcommittee discussion on student achievement and assessment. I'm actually not going to ask you a question about that right now, because I think that Dave Eubanks may follow up on that, but just wanted to flag it, and if David ends up not bringing it up, I will want to ask about it. I would like to focus instead on... my understanding generally is that, is that your schools do not receive federal aid because they are preparing ministers, essentially. Is that basically right?

Frank Yamada: I think as the report states that we do serve as gate-keeper for 67 institutions. So we do receive... we do have some schools that do participate in Title IV.

Bob Shireman: Okay. On the ATS website, there's a lot of discussion about student debt, a lot of really rich information and... that appears to be a Lilly Endowment funded initiative around ministers and student debt, and I was impressed that the

agency has really... seems to have really taken this on in a robust way. Can you give us some... can you tell us some more about that particular initiative?

Frank Yamada: Certainly. Well, as you mentioned before, Bob, we are two organizations, separate organizations: The Association of Theological Schools, which is the membership organization and the commission on accrediting, which is the accrediting agency. Through The Association of Theological Schools, we do conduct programming, both in terms of leadership education for administrators and faculty in schools. We also do initiatives. One of our more recent initiatives was looking at economic challenges facing future ministers, and it was a program and initiative that we conducted through funding from the Lilly Endowment. And in this, we were actually able to do some broad analysis of our school's practices with regard to improving student debt and student indebtedness, and one of the really positive outcomes of that initiative was that we learned that through some education and finance education, both within the schools and among the students, that we could decrease the loans that schools were that students were taking out, and the indebtedness... the indebtedness of students actually was reduced with some of these programs. So it was really a wonderful set of findings. It was a first step, which we are we are hoping to build on in future initiatives and endeavors.

Bob Shireman: Well, one of the things that I was really impressed within, in the initiative, is that it focused not only on what it was called, financial literacy and the students, and how much are they taking out, but also brought in what really is the more significant contributor to student debt, which is the schools and how much they charge and how much it costs to deliver the education. And it... frequently we hear from, from accreditors, and I recognize this as the trade association, the affiliated trade association, and not the accreditor, but we sometimes hear from accreditors was: "Oh gosh, we can't do anything about student debt, and we can't do anything about costs." But here, actually, you've taken on the issue of cost of delivery, which relates directly to the cost of tuition. You have actually taken that on as an area that you are hoping and trying to address. Are you having some success there? Can you tell us a little bit about that effort, that part of the effort?

Frank Yamada: Thank you, Bob. Yeah, it had been a great initiative, and it was an initiative that was again, very collaborative... funded by the Lilly Endowment, but it was collaborative with denominational leaders and local judicatories, who in the past have often flipped the bill or funded most of the theological students that would attend our schools, given the fact that the cost of education is prohibitive for ministers who are not going to be making huge salaries. So another way that we've been seeking to do this, and it is through another one of our initiatives, again, another one that's funded by the Lilly Endowment, is looking at financial models for theological schools, because that is ultimately what we think is driving the cost of the education is the business models of schools. And if we can make some headway in that regard, we think that that will have perhaps an even greater impact on the amount of loans that students would have to take out to be able to achieve their education.

Bob Shireman: Thank you. And lastly, I noted in your application, a couple of occasions where your agency was caught up in the confusion about the department's new regulations and old regulations, and which ones are the ones you're supposed to comply with, and I appreciate that you were politely honest in your application about, "gosh, we were told this, but now we're being told that." So, so I'll... we apologize on behalf of all of the operations of government and the fact that we were all trying to respond to policy changes that kind of occur in the middle of just all this stuff that's going on. So thank you for putting up with that and getting through the process anyway.

Frank Yamada: Well it's our pleasure to comply, Bob.

Bob Shireman: All right, Wally, I don't know if you have questions as well.

Wallace Boston: I just have one question, which is under section 602.15 A1, which is staffing and financial resources. I noticed that initially the analyst asked you for some more information, which, and this Bob, this could have been one of the areas where the standards changed and they noted that they were asked to do this differently at one point in time, but I noticed that 87% of your revenues come from dues. You, have a very narrow, positive surplus each year of about \$40,000. But what I was curious about was have you ever done a sensitivity analysis just due to the size and what I would say, limited resources? Well, it's great that you have a million dollar reserve. And have you ever done an analysis as to what would happen if for some reason, a number of your members decided to go to another accrediting body or any other reason why you lost and would you have... what would you have to do to change your dues structure. Would you change your dues structure to do that? Or what would you do in that type of emergency situation?

Frank Yamada: Thank you, Wally, for that question, and I will defer some of this also to my colleagues who have a lot more experience with the agency. I've been with the agency for four years, but what you're referring to is what sounds to me like kind of a planning scenario, or... I'm getting a little feedback... also getting some feedback. Okay. I'm not sure from where that's coming. Okay. But your question was with regard to dues and the financial arrangements. You should also know that there's also an agreement between the commission and the association that also helps to provide some of the funding that supplements some of our work. But we have periodically discussed the raising of dues... the raising... we have recently also been evaluating the cost with regard to visits and these kinds of things. So there is something that we periodically consider, but in terms of a long-term strategy with, if we should see a vast departure of ETS schools or commission schools, that is not something that I, to my knowledge, that we plan for, or done an assessment on. Tom or Steve, if you would like to maybe address the question.

Tom Tanner: Yeah. Can you hear me okay? Okay. I'd just say basically that the bulk of the expenses for the permission are in staffing, and staffing is tied pretty closely to the number of member schools. So if we had a drastic reduction in the number

of schools, we could probably likely have a reduction in the staffing so that our expenses would keep up with our revenue... at least that would be one scenario that might come into play.

Steve VanAusdle: If I can add... so one of the benefits from reviewing the IRS tax filings of COA and the umbrella organization ATS is that it looks pretty clear to me the ATS is quite, quite healthy financially with a significant endowment. And so the danger... as long as a COA is essentially a subsidiary of ATS, there's not much danger of inability to pay its staff and continue its operations.

Wallace Boston: Yeah. I'm satisfied with that. I'm glad Bob looked at the 990s, that was one that I didn't look at, so I appreciate that, Bob.

Arthur Keiser: Okay. David, and then Mary Ellen.

David Eubanks: Thank you for the presentation. Bob had referenced the learning outcomes subcommittee and the student achievements subcommittee, and I wanted to just follow up on that briefly. And I should note that the subcommittee's work was intended from the outset to be helpful to their accreditors by providing an external perspective, and I hope it will be received in that manner, and this is maybe an instance where it could be helpful. So with that in mind, I read through the 50-page or so manual that ATS has on its website for preparing learning outcomes reports, and I noticed a few things that were similar to what we have seen elsewhere... and I think provide probably opportunities to relieve some of the burdens on institutions and programs that are reporting while simultaneously giving you better results. I won't go into a lot of detail because much of this is, I think, outside the scope of recognition, and that's something that I want to clarify with the staff in a moment.

But here's my question: from reading the learning outcomes manual, it seems like you imply that the learning outcomes standard is a requirement for recognition. Could you clarify whether that's the case or not?

Frank Yamada: Dave, could you maybe rephrase the question? I'm not sure I fully understand. I know to which you are referring, but I want to get the clear essence of the question.

David Eubanks: So, the learning outcomes standards, distinct from student achievement standards, might ask an institution to identify learning goals like critical thinking, or you would have more spiritualized ones applicable there, and then associate those with courses or whatever, gather data, and then often write reports on that. That's sort of standard I believe is included. And the language in the manual seems to imply that that learning outcomes standard is a requirement for department recognition. So my question is, is that accurate?

Frank Yamada: Thank you, David. And I will defer to Tom on this one. Just, Tom is certainly one of our learning assessment experts as well, but he's also been about this in relationship to our accreditation for a while. So, Tom?

Tom Tanner: Thank you. The manual to what you're referring is a revision of a manual that was first introduced in 2016. The new manual aligns with our new standards approved by the membership in June of 2020, where assessment should be simple, systematic, and sustainable. And it's part of new standard, too that require every school for each degree, [inaudible 05:05:09] set of student learning outcomes that they measure, and then act on the results of those findings. It is a requirement in our standards and the manual is meant as a guidance to schools to help interpret those standards in a simple, systematic and sustained way, and we've gotten lots of positive feedback on that.

David Eubanks: Yeah, I'm sorry. I must not have been stated the question properly. I understand that it's a standard that's required for your accreditation. What I'm asking is: are you telling the people who are applying for your accreditation, that that is also a department of education requirement?

Tom Tanner: We don't specifically state our standard what is or what is not a department of ed requirement. That is in our... when we do a visit to a school, we have a list of all the departments regulations [inaudible 05:06:08] schools in the community of the school that they're visiting. So it [inaudible 05:06:18] be recognized, but it's part of education. We have to have certain standards, including those on student achievement, and we have that standard, so by default, it is, but we don't explicitly state that other than in standard one seven, I think it is, we state that any member school must follow all applicable Title IV and department of ed rules and regulations.

David Eubanks: Okay. Thank you. I appreciate the response. The other comment is really just an observation about the manual, that there is some advice in there that I think is probably outdated, and it might be helpful to have people review it who are not assessment consultants. You mentioned a couple of those in the report. Particularly, while the language is inspirational and there's a lot of great advice, I think the parts that pertain to data seem to me to be misplaced and maybe unhelpful so that I think, and again, this is intended to be helpful, I think there's an opportunity that you could help your institutions have less complicated and more meaningful reports. You might, for example, want to have a statistician review that manual.

Frank Yamada: Noted. Thank you, David.

Arthur Keiser: Okay, Mary Ellen?

Mary Ellen Petrisko: Thank you, and thank you very much for your presentation and answers to the questions so far. I know on your website, the denominational list that you have and the institutions that are serving those denominations, and that there are

several that are Korean... and I'm wondering about language of instruction, information, resources, et cetera, at those institutions that you accredit... if they are indeed in Korean or partially in Korean, how you deal with evaluation, site visitors, and review of what resources are necessary to complete the programs.

Frank Yamada: Thank you. So I'm hearing two parts to that question: one is with regard to the school itself and its own instruction and educational mission, and whether that's conducted in Korean, and I'm hearing the second as being with regard to the evaluation of that school and whether those things are taken into consideration, for example, the visiting [inaudible 05:08:40]. To answer the first part of the question, we do have some schools that offer theological education within the primary language of their students... in some cases, Korean. And we have some, a couple of institutions that I believe will deliver their entire curriculum in Korean. We also have institutions that do it primarily in Mandarin, if that is their primary constituency that they serve. With regard to the visits, and again, we pull from a very talented and competent group of evaluators, some of whom have experiences and have expertise within those languages, so that's what we would pull from, and we would... the evaluation team would be sensitive to the missions of those schools and the delivery language of those schools when they're being evaluated. Tom, do you have that you would want to add to that?

Tom Tanner: I just might add that we choose our pool of visitors. We have over 500 visitors in our pool that are trained. Whenever there's a non-English speaking school, we always have visitors whose native language is that particular language, whether it's Korean or Mandarin or Spanish. Those are the three primary non-English languages among our member schools. It's a small portion of our member schools, but we always try to have... we do have a requirement for the accrediting commission that all documents have to be submitted in [inaudible 05:10:16].

Mary Ellen Petrisko: So, you do have sufficient numbers within your accreditor visitor pool? You do have sufficient numbers that it's not always the same two people who speak Korean that are going to all of those institutions. There's some diversity there and you do have sufficient... to cover that and to look at the instructional materials and all those kinds of things.

Tom Tanner: Yeah, I would guess that our pool of Korean visitors is probably at least three or four dozen.

Mary Ellen Petrisko: Okay. That's helpful. Thank you very much. That's the end of my question.

Arthur Keiser: Thank you. I don't see if there are any other questions. If not, I want to thank the team from the accrediting agency and bring back Nicole, do you have any com... yes, I'm sorry. It's it was Nicole. Come back and say any comments on the agency.

Nicole S. Harris: I don't have a comment for the agency, but I did want to offer some clarification to Bob's comments. He apologized on behalf of the department, but there was no apology needed from my part because the petition is clear and my correspondence was clear as well as the correspondence from Herman [inaudible 05:11:37] on what could be submitted in the petition, and the reference that he's referring to in 602.15 A1 staffing and financial resources is in reference to yes, there was a change in the petition submission date, correct. And that was notified to the agency by Mr. [inaudible 05:12:00]'s email. It was noted in his memo, what to include. We had a retirement of Chuck [inaudible 05:12:09] and he had started the review of this agency. He sent an email requesting some additional sections outside of the focus review to be completed and included in the petition. I.

I followed up with the agency, with Dr. Tanner, and let him know yes, to include that information. I told him which handbook to utilize because there were new regulations, but he submitted under the old regulations. So I offered him clarity for that. So I just want it to be clear and letting them know, letting the members know as well as the agency know. I tried to be as clear as possible because of the fact that there was a change, but we tried to document, and you'll see from the correspondence included in the petition, as well as the correspondence included in my response to the petition and the agency, that we were clear on what was to be included.

We were clear on what was requested, and we review the agency, and we have different analysts who review to have a fresh set of eyes, so some things that were compliant before might be questions moving forward. That was noted in the petition, and I just wanted to make sure I let Mr. Shireman know that I appreciate him apologizing, but there was no apology needed on behalf of the department because nothing was done wrong on our end. Thank you.

Arthur Keiser: Okay. I think we're at a point where now we have the two primary readers to offer a motion.

Bob Shireman: Sure. I'll offer a motion in just a moment. I do want to apologize to Nicole. I did not mean to imply that there was anything to apologize for on behalf of the staff. The staff has done an excellent job. The questions were appropriate. The responses were appropriate. My intention was to express sympathy with what we all are dealing with, especially members of the advisory committee, trying to understand how all of this works and just getting confused, not anybody's fault. It's just the nature of this particular beef. So [inaudible 05:14:30] my second apology, I'm sorry to Nicole or the staff if it sounded like I thought that you all did anything wrong or should have done something different. You clarified when folks have had questions. I haven't discussed this with Wally, but I'm assuming he'll go along with it, that we recommend renewing the agency's recognition for a period of five years.

Arthur Keiser: Is there a second?

Wallace Boston: I will second that.

Arthur Keiser: That's Wa...

Arthur Keiser: Is there a second?

Wallace Boston: I will second that.

Arthur Kaiser: That's Wally?

Wallace Boston: Yes.

Arthur Keiser: Okay. Great. Any discussion? Sensing none. We'll go to,

Speaker 17: Sorry, Art. I just want to correct the record. I misled you. I said that the agency implied that as student learning outcomes reports were required for the department, they referred to a Canadian provision of some sorts. So I apologize to the agency for our mistaken fact.

Arthur Keiser: Wow, there are a lot of apologies today. Okay, accept your apology. And we'll move to a vote unless there's anything else if, not Kathleen? [inaudible 05:15:48].

Kathleen Alioto: Yes.

Arthur Keiser: Yes, Kathleen, good. Roslyn?

Roslyn Clark Artis: Yes.

Arthur Keiser: Jennifer?

Jennifer Blum: Yes.

Arthur Keiser: She may have stepped out.

Jennifer Blum: No, I said yes. You just didn't hear me.

Arthur Keiser: I can't see with the slide that's in front of us. Ronnie?

Ronnie Booth: Yes.

Arthur Keiser: Wally?

Wallace Boston: Yes.

Arthur Keiser: Jill?

Jill Derby: Yes.

Arthur Keiser: David?

David Eubanks: Yes.

Arthur Keiser: Molly?

Molly Hall-Martin: Yes.

Arthur Keiser: Paul?

Paul LeBlanc: Yes.

Arthur Keiser: Robert?

Robert Mayes: Yes.

Arthur Keiser: Mary Ellen?

Mary Ellen Petrisko: Yes.

Arthur Keiser: Claude?

Claude Pressnell: Yes.

Arthur Keiser: Robert?

Bob Shireman: Yes.

Arthur Keiser: What's your motion, Robert?

Bob Shireman: I said yes.

Arthur Keiser: Okay. Steven?

Steven VanAusdle: Yes.

Arthur Keiser: Okay. Motion carries. I want to thank the staff from the commission and we wish you well. Okay. We are going to do another agency, which is the next one, which is the Accrediting Commission for Acupuncture and Oriental Medicine, but we're going to take a five minute break and it is...

Let's say we come back at 2:25 and we will begin that process and the readers are Robert again and Claude. Okay.

Speaker 18: Art, are we sure that the agency representatives are here?

Arthur Keiser: We made it clear to all the agencies that they, we may be moving things up. Cause we looked like we had some time here and hopefully [crosstalk 05:17:22]. They're here? Okay, great.

Speaker 18: Okay, great. I just want to make sure, thanks.

Arthur Keiser: Okay. If they weren't here then we wouldn't be able to do anything, right?

Okay. Candace, if you... Yeah. Thank you.

Welcome back everyone. Thank you for being back here on time. We'll do one more agency today and we'll have... We'll be able to get done earlier tomorrow, depending on how verbose we are with the policy meeting. I know we will be losing Paul, around 3:45. I want to make sure we still have, if you are going to leave, let it be known. So I can assure, so we have a quorum.

Okay. Now, the last meeting for today is the renewal of recognition for the Accreditation Commission for Acupuncture and Oriental Medicine. The two primary readers are Claude Pressnell and Robert Shireman. Claude. Robert.

Claude Pressnell: Yeah. Thank you, Mr. Chairman. Yeah. As you mentioned, this is the Accreditation Commission for Acupuncture and Oriental Medicine. They were first recognized in 1988. Last recognition was 2016. The current petition is for continued recognition, their scope, the accreditation and pre accreditation throughout the United States of professional non-degree and graduate degree programs, including professional doctoral programs in the field of Acupuncture and/or Oriental Medicine, as well as a free standing institutions and colleges of Acupuncture and/or Oriental Medicine that offer similar programs. During the review, there were many third-party comments, but I know [inaudible 05:25:46] third-party [inaudible 05:25:47] today. And there is currently one outstanding issue dealing with picture 2-15-8-4, which deals with educators or practitioners being present for an appeals process. And I'll turn to Charity to give us further details about that, [inaudible 05:26:11] or isn't. I have doubt that they're curious, the staff.

Arthur Keiser: Actually, will not be Charity, it will be Mike Stein.

Claude Pressnell: Is Mike [inaudible 05:26:22]. Okay. My apologies, Mike have at it.

Mike Stein: Thank you.

Arthur Keiser: Mike. I'm [crosstalk 05:26:26] sorry, Mike.

Mike Stein: No problem.

Good afternoon, Mr. Chairman and members of the committee. My name is Mike Stein and I'm providing a summary of the petition for renewal of

recognition for the Accreditation Commission for Acupuncture and Oriental Medicine also, known as ACAOM or the Agency. The staffs' determination identified one outstanding issue related to the Agency's appeals to [inaudible 05:26:48] the trouble discuss [inaudible 05:26:49]. The staffs' recommendation to the senior department official is to continue the Agency's current recognition and require the Agency to come into compliance within 12 months and to submit a compliance report 30 days after the 12 month period that demonstrates the Agency's compliance in this area.

The staff analysis was based on a review of the Agency's petition with supporting documentation, as well as the file review and staff observations. The outstanding issue for the petition is related to the agency's appeals panel. The agency serves as both a programmatic re-accreditor and an institutional accreditor for single purpose institution.

The regulations require that the Agency have policies in place to include practitioners and educators on its appeals panels, and those cases were to serving as a programmatic accreditor. The Agency reported that it is not convened in any appeals panels, during this review period. Its policies around appeals panels did not reflect the presence of educators and practitioners for those schools, for which it serves as a programmatic accreditor. The Agency has not had any complaints, with the department since its last review. However, a school that the Agency accredits, has been the subject of a report released by the Seldin/Haring-Smith Foundation, which resulted in a court congressional inquiry to the department. Additionally, the department received a third-party comment about ACAOM, from representatives of the Seldin/Haring-Smith Foundation, in which they stated to the Agency had not shared information with the foundation related to whether or how they investigated the issue with the school, in question.

The Accreditation Group has opened a 6-0-2-33 inquiry into this issue. Our representatives from the Agency here today, for one to note the Charity Helton, which is the Accreditation Group Staff Analyst, assigned to the Agency and she conducted the analysis for this petition. Unfortunately, Charity could not be here today. And so myself and Herman Bounds are available to answer any questions. Thank you.

Arthur Keiser: Are there any questions from the committee to Mike?

I do have a question. So we have an open investigation that has not been either resolved or adjudicated?

Mike Stein: We're going to refer that question about that to Herman.

Herman Bounds: Yes. Yes we do. Once we received the article, we started drafting a letter, excuse me, hard to talk through this mask, but we started to put together a letter to

send to the Agency requesting some additional information. That letter has not been finalized, but we are in the first stages of what's required under a 6-0-2-33.

Arthur Keiser: And then if I ask Donna, if- [crosstalk 05:29:32]. If I could ask Donna, is it appropriate for us to be discussing a complaint that's open?

Donna Mangold: I don't think that there's any prohibition against you talking about it, but again, the issue is under review or will be under review in a 6-0-2-33. So it would, to the extent that whatever decision you make for recommendations, things to be waited on the issue of this investigation, it would put that recommendation in a more fragile position. There's nothing... You can talk about whatever you want to talk about, but know that the staff has this under review.

Arthur Keiser: I hate to ask you- [crosstalk 05:30:19]. I hate to ask you what a fragile recommendation is?

Donna Mangold: Yes. I know. It's like, it's like- [crosstalk 05:30:28]

Arthur Keiser: In all these years, I have not had one of those yet.

Donna Mangold: That's a fancy legal term. What is the weight the SDO will give the CT's recommendation if, it seems to be tethered on an investigation that has not yet been done? That's the issue. It has to do with the quality of the recommendation if, that seems to be after the discussion, the basis for it, that would be the concern.

Arthur Keiser: So there are no prohibitions for us, asking probing questions?

Donna Mangold: Nope. Nope.

Arthur Keiser: Okay. I'm sorry to... I just needed to be sure that I wasn't stepping across a line. [crosstalk 05:31:17]

Claude Pressnell: Questions I think Art...

Arthur Keiser: Okay, good.

Claude Pressnell: Let me just start off here. I share your concern Art, about doing this review. I think that the allegations are incredibly egregious for those who got to read the report, which was distributed. We're talking about human trafficking. I mean, it's probably one of the weightiest topics that we hit, that's come before this committee. I'm also hesitant to move forward with this. Is there any way we can defer to the next NACIQI meeting to see what the outcome might be on this investigation?

Arthur Keiser: Donna, would you like... Donna or George or Herman?

Herman Bounds: Well, I can't answer that right now. The first thing I need to do is check to see when the Agency's recognition period would expire because if you move it to the next meeting, that recognition could expire. So I need to check that before I say it's okay to defer for the committee to recommend something else. So let me, let me do that right now.

Claude Pressnell: Okay. I [crosstalk 05:32:44] motion was 2016, so I'm sorry, boss.

Bob Shireman: Yeah. I just wanted to throw into the discussion, I think that's what the continue recommendation is that told us about earlier, which I guess can't make that we're continuing, we're not renewing, we're continuing so pending something, but I would have to go look back at my notes because not keeping all the mystery.

Herman Bounds: Art?

Arthur Keiser: Yes. Go ahead, George.

Herman Bounds: This is Herman. No matter what happens the Agency can't [inaudible 05:33:17] the five-year recognition period cannot be exceeded. So before anything is decided, we need to know exactly when their five-year recognition period would be over. Because if you go past that, the continue doesn't matter because right now, they were last reviewed probably in 16 or 17. I have to look. So it's five years from that day when that recognition period is over.

Arthur Keiser: Well, I think I have to agree with Bob, in order to be fair to the Agency, Ace. We're just asking questions, we're not doing any evaluation or investigation of a very significant concern as Claude put it. Can we just say continue? I think Bob's correct if, we have the right to continue to the next meeting.

Claude Pressnell: Instead of continuing for five years- [crosstalk 05:34:18].

Arthur Keiser: Well, the next meeting is in February.

Herman Bounds: Let me look up when their recognition period expires, and I'll [inaudible 05:34:28] within that five years that's been made clear to us about several OIG reviews, no matter what happens at AEC recognition cannot exceed five years. So if you expand past that five year point, to February, then that's a huge violation. The Agency's recognition is going to expire. And then- [crosstalk 05:34:45].

Arthur Keiser: We don't want that to happen. [crosstalk 05:34:47] So could you look that up for us Herman? Because I'd be comfortable-

Herman Bounds: In a minute.

Arthur Keiser: I'd be comfortable with tabling it to the next meeting, but if not, we'll go through with it. And they did not have any concerns other than this issue.

Speaker 19: Their accreditation letter was March of 16.

Arthur Keiser: So March... Four.

Speaker 19: That's what our documents from the public record says.

Arthur Keiser: So they're already past the five-year.

Claude Pressnell: It's already past.

Herman Bounds: Probably back from the date of the SDO decision letter, not the recognition review.

Arthur Kaiser: Okay.

Herman Bounds: I need to pull up the SDO letter.

Speaker 20: It sounds like pretty cool stuff.

Speaker 19: The SDO letter was March of 16, I believe. I'll go back and look.

Arthur Keiser: Kathleen, you have you're muted. Kathleen, go ahead, join in. [crosstalk 05:35:53].

Kathleen Alioto: If it's already passed then this is a moot point and I totally agree that we shouldn't be taking this on until there's been some kind of legal [inaudible 05:36:10]. We want [inaudible 05:36:10] to accredit, something that might be involved in sex trafficking [crosstalk 05:36:15] please.

Arthur Keiser: Kathleen let's... We got to put it with the complaint was, it was that one of their institutions was involved, not the accrediting agency. Let's be careful what we say. So it wasn't the accrediting agency that was doing this. It was one of their institutions. And that's where we get involved at that point, but not determining whether they were involved in it, because that was not the complaint.

Speaker 19: Again, Art though the first part of the PDF and the public says March of 16 was a SDO letter to them. The vote was- [crosstalk 05:36:55].

Bob Shireman: I'm looking at a letter that's September 22nd, 2016 to it's in our- [crosstalk 05:37:02]. In the historical documents that are in recognition to Mark McKenzie, Executive Director from Emma Virginia, the chief of staff, the SDO, looks to be like September 22nd, 2016.

Arthur Keiser: So we need to [crosstalk 05:37:25] do something now. Yeah. We'll need to do something now. Okay, well I'll let me invite the Agency representatives up and we can figure out what we do once we hear the discussion. The representatives are Mark S. McKenzie, Executive Director of ACAOM. Marnae, I hope that's correct, C. Ergil who is the Chair Person of ACAOM, Karl Gauby, who is also the Director of Regulation Affairs for ACAOM. And those are visitors. I'm sorry. We had that discussion before you, but it was more just so we do the right thing for the Agency, for the Department of Ed. It's your floor, now.

Mark McKenzie: Well, so I can start out by apologizing. Is my audio appropriate for-

Arthur Keiser: You're fine. You're fine.

Mark McKenzie: Great. Thank you. All right. Yeah, this is obviously a big issue and it just came up. So, I'll confirm what Bob found, was the September 22nd, 2016 was the letter that we received. So, my name's Mark McKenzie, I'm the ACAOM, Executive Director. With me are Dr. Marnae Ergil, our ACAOM Chairperson and Dr. Karl Gauby, our ACAOM Director of Regulatory Affairs. Want to start out by acknowledging chairman Keiser and thanking him and the NACIQI board members, NACIQI Executive Director Smith, and then the NACIQI staff. Just to Accreditation Group, Director Bounds and his staff and Ms. Helton, our staff analyst, and my thoughts and prayers go out to her on her family issue.

First, I would like to thank the Department of Education for extending flexibilities, to both accrediting agencies and institutions of higher education, during COVID-19. As you know, this has been a challenging time for all of us, but ACAOM and the programs and institutions, it accredits have greatly benefited from the Department's pandemic related guidance.

I would also specifically like to thank Director Bounds and our analyst, Ms. Helton, who attended our August 2020, meeting and the rest of the Accreditation Group staff for their professionalism and thoughtful in steering our focus [inaudible 05:39:53]. ACAOM is a relatively small accrediting agency with eleven commissioners, two public members, out of the eleven. And five staff that provides both institutional and programmatic accreditation. We currently accredited 121 graduate programs at 51 different institutions with an average institutional head count of 132. In the course of this review, which began in 2019, ACAOM responded to 94 different criteria, provided 145 exhibits, submitted substantive narrative responses to 26 focused review criteria, provided additional supporting documentation for 11 criteria and 2 full institutional reviews resulting in a single finding under 6-0-2-15-A-4, which was to ensure that we have a current educators and practitioners present on a related appeal panel. Although we did not actually have an appeal during the cycle, Ms. Helton properly identified a deficiency in the appeal panel, participant definition.

The Commission has already updated our Commission Actions Policy by revising the definition of an appeal panel or appeal committee to include, "And shall be

composed of a educator or administrator from a member institution accredited by ACAOM and acupuncture/Chinese herbal medicine practitioner and a public representative," it's found on page 12 of our Commission Actions Policy, which is available on our website.

The same language has already been inserted into how appeal panel committees are selected and that's on page 15, of the same policy. Having fully addressed this single definition and related deficiency, ACAOM believes it's Continuing Recognition Petition is now fully compliant. And regardless of the information that was discussed earlier, we would respectfully request a full five-year recognition period without, a compliance report. If reporting is necessary, I suggest consideration of a monetary report to be reviewed by staff, consistent with Department regulations, rather than taking valuable time during the NACIQI review in 2023, to review a simple definition change within our Commission Actions Policy, which has already been revised. So we'd be reporting on something that has already occurred.

At this moment, I'd also like to take a moment to acknowledge our third-party commentators from the Seldin/Haring-Smith Foundation. Their recent case study, sex trafficking and state authorized massage schools, uncovered some very disturbing things. We don't take these lightly and I am grateful for their efforts in bringing this alarming issue to light. And on behalf of the Commission, I want to extend an offer to collaborate with the foundation as well as other members of the triad to address this problem. As I expect and as the earlier conversation indicated, there are going to be significant questions on this issue. At first, I'd like to emphasize that ACAOM, does not accredit massage therapy programs, we do accredit graduate degree programs in acupuncture and herbal medicine. We currently offer four masters and four entry-level degrees, two masters, two doctors, one advanced practice doctorate degree, and a graduate certificate in Chinese herbal medicine.

I want to take a little bit of time to explain I think, the background that led... That can address some of the questions that you may have based on the case study. So historically, a few institutions accredited by ACAOM have offered either required or elective courses in an East Asian body works typically called, Tui Na. And they're usually embedded within the ACAOM accredited programs. Tui Na combines acupressure, massage techniques and other forms of body manipulation to induce therapeutic effect. Some institutions like the one referenced in the foundations case study. I'm sorry about the phone in the background. Some institutions like the one referenced in the foundations case study were granted State Authorization to award certificates. Upon completion of elective coursework offered within an ACAOM accredited degree program. It's basically a legacy issue from early 2000s.

Tui Na coursework makes up just a very small part of ACAOM accredited degree program. Tui Na is not, and has never been a standalone certificate program that's accredited by ACAOM, nor eligible for financial aid. Nevertheless, as the case study noted, ACAOM moved immediately to address this matter by issuing

an order to show cause to the institution as to why ACAOM should not revoke its accreditation and deferring action on the pending substantive change. Subsequent to a consent decree being reached between with the State of Minnesota and the institution, the institution was placed on probation by ACAOM and their accreditation will be reviewed at the Commission's next meeting, which is actually next week. To be clear, we expect all institutions and programs we accredit, to act ethically and lawfully, whether that involves specifically accredited programs or not. And the Commission will take action consistent with our Commission Actions Policies.

In late 2016, as part of our regular and systematic internal review and assessment, ACAOM revised its Glossary and Notification of Changed Policy to more clearly address and distinguish continuing education coursework, which ACAOM does not accredit from certificate programs, which ACAOM can accredit.

ACAOM accreditable certificate programs have six criteria, they must have necessary State approvals, they must be a common credible accreditable, in other words, we have standards for those programs that are taught at the masters or higher level, they are credit bearing and they are awarded an acknowledgement of program completion and they may be entitled for eligible subject to US Department of Ed regs. Additionally, we created a Guidelines for Developing Certificate Programs, to ensure that ACAOM has standards for all certificate programs being offered by accredited institutions.

In 2018, we conducted a program verification survey of all ACAOM accredited institutions. The survey identified five at that time, both for profit and non-profit, that were advertising and/or offering some type of legacy bodywork certificate program. When brought to their attention by ACAOM, three of the institutions ceased offering their programs and the other two institutions are in the process of closing, planning for a teach out of their existing bodywork students or converting and their legacy programs to continue in education. To our knowledge, no ACAOM accredited institution has utilized Federal Aid for a standalone body work program.

In closing, the case study identifies a gap that exists within the triad, that needs to be considered and addressed collectively by accrediting agencies, state authorizing agencies and the Department in order to protect the victims of sex trafficking and the innocent students, staff and the faculty that are indirectly linked to individuals that are perpetrating unlawful acts. While horrific, this case study is not emblematic of all of the institutions that we accredit or that other agencies may accredit to provide high quality education and training to students of these disciplines, but it does expose a problem that needs to be addressed. And thank you. I'd be happy to take any questions.

Arthur Keiser:

Okay. Primary readers and Bob, if you have your hand up, please pull it down. And Kathleen, if your hand is up from before, please pull it down.

Claude Pressnell: I'll go ahead and ask a couple of questions then Bob, I'm sure you have a series of questions as well. I appreciate your presentation. I appreciate it as well, pinning the issues head-on. I think that's admirable that you've done that. I think that from my perspective, it appears that you've satisfied, the staff report on the appeals committee piece, it appeared to be some confusion on different definitions of terms. And I think that you've clarified that. So I appreciate you doing that. Under normal circumstances this probably would have gone rather quickly, but obviously now that we have another issue, the foundation report, I think is a pretty serious allegation as to what's going on. I do completely understand that we're talking about a particular institution that happens to be under your accrediting proview-

Claude Pressnell: That happens to be under your accrediting purview, we're not talking about the accrediting agency. However, situations like this, I think give grave pause to looking at our procedures, to see if there are other things that we might be able to do in order to catch us such activities. In particular, there were some things identified in the foundation study that I wanted to ask you about that does relate directly to the accreditation fees. One was false credentialing, and also [inaudible 05:50:38] grossly unusual student billing pieces. And I know that having been an accreditor, or sitting on an accreditation board before you do look at, or at least sample those types of things. And so can you talk to us about your procedures around examining the credentials, and also on student billing, and revenue sources?

Mark McKenzie: Thank you for the question, Claude, and maybe some background information about what actually occurred may help. So my understanding is that the state for Minnesota Office of Higher Education received confidential complaints from at least one city based on arrests made for prostitution. And the people that were arrested indicated that, or showed evidence of certifications for graduation in the certificate program offered by the particular institution. My further understanding is that the state authorized, let me back up, that program was limited to Chinese only. So it was a Chinese program delivered in Chinese, again, approved by the state, not accredited by ACAOM, not reviewed by ACAOM. The state upon the information that they received conducted an unannounced site visit. And they went in, and I think it was either the first or second day, they found a, from my understanding again, is that they found a locked closet that contained the records of this particular program.

They were separated, and under lock and key apart from all of the students in the accredited programs. So even though, our site visitors when they go, we look at all of those things. We didn't actually see those, but we weren't actually reviewing the program. So we wouldn't even be asking for records, but they were part of original record. So that addresses the record issue, I believe. As far as our review of the school, they actually did a good job of record retention. They had compliance with all of their other student records, all of their other billing records went as far as our reviews, our most recent review had been. It was the incomplete records they're talking about, were under lock and key, and were not available under normal circumstances. So this appears, at least to me,

and I haven't been provided all the evidence from the Office of Higher Education as to what they found, but I think was turned over to the Attorney General's Office. And whether there's a criminal complaint being conducted or not, or inquiry being conducted, I'm not aware.

And obviously most Attorney General's Offices will not share information with an accreditor on something like that, as far as an ongoing investigation. So while the timing of this obviously is difficult for [NACIQI 05:54:13] and for us at the same time, the underlying issue of sex trafficking is so much of a bigger issue that we'll work with NACIQI, and the department of ed to resolve this issue. As Director [Browns 05:54:26] indicated, apparently an investigation has been approved by the department. We have not been notified. We haven't been provided any information. We will obviously comply with that. We have absolutely nothing to hide. And I want to assure all the members of the panel that this is, I think a one-off. It is somebody that was conducting criminal activities under lock and key. We didn't find out as an accreditor, and they've been operating in the State of Minnesota for 18 or 20 years.

Claude Pressnell: I appreciate that, and I think we're very fortunate that the Minnesota Higher Education Office or the Office of Higher Education, that they acted so quickly on the complaint, and moved forward like they did. Could you address for us now, the change of name, and the change ownership of this institution, and the impact of that? And what process did you have them go through to approve such a move?

Mark McKenzie: This is a combination of things that happened. So the Office of Higher Education notified us on February 22nd, 2020, that they were taking action to revoke state authorization to the institution. We actually on the same day, because we were at a commission meeting, took action on the same day. Our action letter went out maybe five or six days later, and that's when we put them on show cause. Then the next process was the consent decree was sometime a couple of months later, I think in June. And as a result of the state's agreement with the consent decree, they actually required the institution would either close, or it would go through a change, had to sell. And the current owner had to be completely disconnected from that institution going forward. They put basically a one-year timeline that got extended a couple of months to coincide with the end of the term. And so I think in April, I think it was April 26th, 2021, everything had to be complete.

There was a potential buyer, and the seller put in, I think, three different change of ownership requests that were initially denied by ACAOM upon review. Mostly it was because of incomplete information and, or they hadn't received the authorization from the State of Minnesota. This is one of the challenges I think that this episode exposes is that, who goes first? Is it the state, or is it the accreditor, or is it the department? And as the accreditor, we have probably the least legislative. We don't have any investigative power [inaudible 05:57:42] our standards. We can't subpoena records, we can't do those kinds of things. So that's a bit of an issue that I think that exposes. Did that address your question?

Claude Pressnell: Yeah, it did. Can you just briefly, do you recall the actual transaction in terms of, I'm trying to think, did the previous owner, I know they had to cut the ties, but I'm asking about what type of benefit did that previous owner actually receive as a result of the sale? And I'm assuming that there is currently no involvement of the previous owner, but the report seemed to indicate that the previous owners' photograph was still showing up as still in control. So please talk through that.

Mark McKenzie: As far as the compensation, I'm not sure it's appropriate for me to get into that, and I don't have the exact numbers in front of me either. So I don't want to give you bad information. The purchaser, I think the actual contract for sale became effective about mid-February in 2021. And they negotiated a waiver, I guess, we'd call it with the Minnesota Office of Higher Education to retain the services of the outgoing president, just for the purposes of ensuring that all federal aid stuff for the Acupuncture Program, and all those students that shouldn't have been harmed in this process was taken care of. So we basically followed the state in this process. The state made the action that they were willing to do that, then we'd basically per their requirement. As long as it was consistent with our commission and actions policy, and doesn't violate our standards or policies.

So, my understanding is today, and I think the article even mentioned or the case study may mention this, is I believe that the state extended the ex-owners, the previous owner, his involvement with the institution to August of 2021. And at that point, there's no further, he cannot be employed. My understanding is that he can't be employed. He can't receive any benefit, ongoing benefit. The institution had a property that was owned, I believe under separate organization, separate cooperation, probably personal, and that forced actually the institution to move. So the new buyer relocated to another part of the city. And so my understanding is it's completely separate, but they do have some management services being delivered through August 2021.

Claude Pressnell: Was there any change in the tax status of the organization as a result of the transaction?

Mark McKenzie: No. Both were the written, the seller was for-profit, the buyer was for-profit.

Claude Pressnell: Thank you, Mr. Chairman, I'll turn it over to Bob.

Bob Shireman: Thank you, Clyde. You've done a great job, and it's quite complete. I wanted to make a suggestion to the chairman, and see whether it might be considered. It feels to me like we would benefit at this point from hearing the third party commenters, and then having the option of continuing some of the questions on the agency after that. I would suggest that, and see whether it might be considered.

Arthur Keiser: Typically, we let all the members ask the agency of their questions. We can always bring the agency back after the third party, because they will come back

and comment on that, and we'll be able to ask them questions based on the third-party commenters' report.

Bob Shireman: So as long as we can do that, we can ask questions after the response to the third party. Is that right?

Arthur Keiser: Yes, sir.

Bob Shireman: Great. Thank you.

Arthur Keiser: Is that it, Bob?

Bob Shireman: That is it for now.

Arthur Keiser: Anybody else, questions? I don't see any hands up. Oh, Mary Ellen. You go.

Mary Ellen Petrisko: [inaudible 06:02:29] disclose, many years ago I worked at an institution that had a counterfeited progress, but that was a long time ago. Question about what you've been doing, what your institutions have been doing during the pandemic? Many institutions have shifted to online instruction, and I know some of what you do is online, but there's an awful lot in your programs, not just clinical, but other learning experiences from day one that require physical interaction. So I'm wondering how have you handled this during the last 18 or so months?

Mark McKenzie: Well, first, hello Mary Ellen. It's nice to see you. I guess, the pandemic has been very challenging for all of us, and for the schools and the students as well. ACAOM, as soon as the department came out with flexibilities guidance, we actually created a waiver process for schools to apply, initially for didactic education only, and that was extended to clinical education. We did not change any of our standards, so the standards or competencies. So graduates still have to meet all the competency requirements. Through the process, we've had to expand our thresholds. So we had started to allow a little bit more in clinical, what we call observation. So this is younger clinical students, observing practitioners, and patients, and things like that. And so the feedback that we've gotten from institutions on that, the clinical observation is perfectly legitimate. There's also some approaches to tele-medicine that we're, let's say experimented with, by all of the schools. Because every one of our schools did take advantage of the waiver process.

They submitted information, and an initial application for that waiver. And I think November and December, we actually pulled together a panel of clinicians from accredited institutions to discuss what is reasonable? What can actually occur within the clinical setting? And so much of the feedback that we got is, well, it's a bandaid approach and it works. It's not a good long-term solution. I think you would get pretty much a 100% support from the institutions that they don't want to continue to offer virtual clinical things. There is obviously

opportunities for tele-medicine going forward, but that's actually regulated at the state level. So very challenging for us to deal with that at an accreditation level, because of the varying state regs around tele-medicine. I'm going to stop there, [inaudible 06:05:40] began to address your question.

Mary Ellen Petrisko: I'm just thinking about something [crosstalk 06:05:48] learning pulses. Did you hear me? I'm sorry, I can't hear you now.

Mark McKenzie: I got part of your question, Mary Ellen, about the clinical applicability things like learning pulses. Absolutely, those things need to occur, and the hands-on component needs to occur. And so if those competencies are not being addressed, some students may have to delay their program. That was the biggest challenge, which is unfortunate for the students.

Mary Ellen Petrisko: That answers my question.

Arthur Keiser: Dr. McKenzie, I have two questions.

Mark McKenzie: Sure.

Arthur Keiser: The first is, you say you've kept all of your standards, all of your benchmarks during the pandemic. However, and I think as, Mary Ellen pointed out our students have been negatively impacted by the pandemic. And has the commission not looked at flexibility for students, and especially in their pass rates for their boards?

Mark McKenzie: We do. So flexibility on the pass rates for boards, because those are typically didactic, it's a written exam, some light practical components right now, I believe. But we do a three-year rolling average on our board scores. And so we're just going to be getting board scores from 2020. And those were just the upper level students that are already through it. So this is going to cascade down for the next couple of years, the impact of the pandemic. The commission one, we haven't changed our standards. The commissioner has the authority to take that into account, and we absolutely will. Student protection is an extremely important component of what this commission looks at.

Arthur Keiser: My second question, accreditation is based on integrity and trust. And when you found out that this institution violated your trust by keeping one, running a separate program without notifying the commission, two, keeping separate records, how did you continue this institution's accreditation and allow it to be sold?

Mark McKenzie: This was in negotiation, partly, and some discussions with the Minnesota Office of Higher Education and the commission. Commission looked at it, and well, we could have closed the institution down immediately. The folks that get hurt the most are the students that are currently enrolled. That institution is located as, at least in one program located in a city that does not have anywhere for those

students to transfer. So it would require a significant burden on students to do that. When the [inaudible 06:08:56] state negotiated the consent decree, we felt that that was a feasible approach to protect the students. Also, you've got the other, all of the folks that were not liable for the action that was taken by the owner. I think you hit on a very challenging circumstance, and that's where the commission landed on that. But I can tell you, there was a lot of discussion about immediate closure as well. That was clearly on the table for us.

Arthur Keiser: Kathleen, you have a question? You're muted, Kathleen.

Kathleen Alioto: Piggy backing on your questions I ask, this sounds pretty cozy to me. Why didn't this guy go to prison? What's going on? And I why isn't he at least being held someplace while this thing is being adjudicated?

Mark McKenzie: It's a good question, Kathleen. Unfortunately, I can't answer for the Minnesota Office of the Attorney General or whoever would be the regulatory authority within the state that can make those determinations.

Kathleen Alioto: Well, the fact that this guy is around some of your students still, is disturbing.

Mark McKenzie: I absolutely agree.

Kathleen Alioto: Thank you. Tough position for you guys.

Mark McKenzie: Well, like I indicated earlier, yes. To us it's a challenging position, to the victims of the sex trafficking, this doesn't even compare. So I'll sit here all day long, and answer any of your questions, and try and help as fast we can to address this issue. Because, that needs to be the real focus.

Arthur Keiser: Seeing no further questions, I'd like to call up a third party commenter, Ms. Ellie Bruecker, from the Seldin / Haring-Smith Foundation. Ms. Bruecker, are you with us? I see your name down there. Ms. Bruecker.

Ellie Bruecker: Can you hear me?

Arthur Keiser: We can hear you, yes, you moved to my screen.

Ellie Bruecker: Hello, my name-

Arthur Keiser: By the way, you have three minutes, and I'll time it.

Ellie Bruecker: Hi, my name is Ellie Bruecker, and I am a senior research associate at the Seldin / Haring-Smith Foundation. Thank you to NACIQI for the opportunity to speak today. I also want to thank Dr. McKenzie for his kind words about our report. We look forward to working with him and other members of the triad to root out this kind of abuse, and other abuses against students in higher education. I do want to respond to one aspect of Dr. McKenzie's comments. At SHSF, we do

not believe that this is a one off case. Experts in the field do believe that this is widespread. Earlier this month we released a report that identified a school in Minnesota, which the state authorizer ordered to close due to an explicit suspicion of sex trafficking. After a change in ownership that school has continued operations without losing title for eligibility.

The school in this case was accredited by ACAOM. While we applaud the immediate action of ACAOM to issue a show cause order for the school after the state authorizer issued the revocation order, we would like to know whether ACAOM conducted a review before choosing to place the school on probation? We are also concerned that the agency was unwilling to share information about this case with us in the course of our research. It is not clear if ACAOM conducted an investigation as a result of the state authorizer's suspicions. We contacted the agency and were told that the institution's full accreditation record is confidential. It is certainly possible that the agency conducted an investigation and did its due diligence, but we could not verify that. And while we understand that ACAOM did not accredit [inaudible 06:13:25] and that program in question, we remain concerned about the continued involvement of the former owner of the school who did manage the [inaudible 06:13:32] program previously.

This raises questions about the role of accreditors in dealing with this issue, and the lack of transparency, in this case, in strategy. In our broader research we found a number of currently operating schools that have been unapproved by a volunteer massage therapy certification board, yet retained approval with their accreditors. As the arbiters of educational quality, accreditors must be vigilant in ensuring that their schools are not engaged in criminal behavior, and be transparent about their review of schools that have been disciplined or disapproved of by other regulatory agencies, especially for actions as severe as sex trafficking. We urge NACIQI to ask the agency to disclose their methods and processes for identifying schools at risk for trafficking related activities, as well as other criminal conduct. The lack of publicly available information about this particular case, or the issue in general, leave students in the dark about the schools they are choosing, and impairs the ability of other regulatory bodies to take action to protect students. Thank you for your time.

Arthur Keiser: Thank you. Pull back to the agency representatives. Do you have any comments?

Mark McKenzie: Yeah, is my audio back on okay, first?

Arthur Keiser: You're fine.

Mark McKenzie: To Ellie, I just want to apologize. When I said one, meant one off, or when I was talking about that, I feel it's one off for our agency. It's not something that I believe is emblematic of any other of the schools within our purview. I'm not debating that it is a big issue, and I actually agree with you, because this is an

important thing to address. As far as the review, we've been monitoring this school and all aspects of it since basically February 22nd, 2020.

We did full reviews on all of the change requests. It has taken an ordinate amount of staff time for a small agency, but yes, we do, we have continued to conduct reviews. As far as the ability for ACAOM to provide an accreditation record to an outside agency just based on an email request, we just don't do that. That's the information is confidential. It's part of, or typical accreditation process. I do believe that I did provide you all of the publicly available information with regarding the AAAOM at the time, and did not avoid your request altogether. It's just that it was limited and to what's publicly available. I think I'll stop there. You might be muted.

Arthur Keiser: Bob, you can ask questions if you'd like.

Bob Shireman: Thank you. On the issue of public availability of accreditation information, there is no law anywhere that requires agencies to keep accreditation, decisions, letters, et cetera, confidential. So I wanted to encourage you to consider doing what the [inaudible 06:16:52] the Western agency has done, which is to make many of those documents available on their website, visiting team reports, decision letters, et cetera. So that there's more transparency. [crosstalk 06:17:07]

Part of the reason that any public institution around the country ends up making those available publicly anyway, because of public records laws. And so it doesn't really make sense for private non-profit or for-profit institutions to have those hidden. So I encourage you to go ahead, and make those records available. Calling them confidential makes it sound like there's something in there that it's like personal information, or social security numbers, or something like that, that kind of thing can be redacted. But I think you should make the information available to the foundation and others, maybe post it publicly on the website. I wanted to follow up on the other schools question. USA TODAY did some follow up on the foundation's report, and found a number of schools that they identified as potentially problematic. I wanted to confirm with you, have you gone through their bare list of schools, or somehow called through your schools to determine what you said about there not being any others in your agency?

Mark McKenzie: We've reviewed the USA TODAY article. I believe the schools that they're referring to, and not that they listed all of them, and they didn't provide that list to us, was referring to the massage therapy schools, which we don't accredit as I said in my opening. We have looked at all of our schools, and all of the schools that are providing even the certificate, or continuing education level to ensure that everybody's offering the programs that we accredit. So outside of that, I can't speak to what other massage programs that are outside of our purview are doing. And as far as your point on the confidentiality of the information, that's currently within our commission policies, but you're right, the commission can

determine at what level they should make information available. And I'm sure that's going to be a substantive discussion next week, as part of our-

Bob Shireman: Do you have any public institutions?

Mark McKenzie: We have [crosstalk 06:19:39] So we're both an institutional and programmatic accreditor. We have, I believe 51 total institutions. 33 of our institutions are, we're the institutional accreditor. Of those 33, I believe 16 are nonprofit, and 17 are for-profit.

Bob Shireman: Are any of the programmatic approvals public institutions?

Mark McKenzie: Many of them are non-profit, but-

Bob Shireman: I'm just wondering about if [crosstalk 06:20:15]. So the apparent reluctance to just close an institution that probably should be closed. We see that with the department of education and accreditors, and frequently the excuse seems to be there are existing students, some existing programs. If you just close it they're thrown into this zone of what do they do? And so we end up in these situations where it becomes almost impossible to withdraw federal aid, or withdraw accreditation, which probably undermines federal aid. I'm wondering if you thought about any solutions that could be considered on the policy side of things for a landing place for students at problem schools may be offered in a more general way, so that we're not in this situation where once a school is accredited, or once a school starts getting federal financial aid, it just hangs on forever out of fear of causing some upheaval from the student's standpoint? And this is a policy question, not really related to this struggle that you all have, not related to your recognition.

Mark McKenzie: I [inaudible 06:21:56] just be clear. ACAOM has no hesitation to terminate accreditation for an institution that is in violation of our standards based on the evidence, everything that's provided to us, the information and evidence that we have. For example, or as I said, we have 51 institutions we accredit. We've actually terminated accreditation from five institutions over the last cycle. So 10% of the schools, roughly nine, and 10% of our schools were terminated for various issues. And when we have the evidence in front of us, this situation was very challenging because everything for us as far as evidence was the letter from the Minnesota Office of Higher Education doing the revocation, which was subsequently stayed. So as an agency, we're trying to follow the evidence in front of us. And so you're right, that's a really, it was a very challenging situation.

If we had had copies of all of the evidence that they based their decision on, that would have made our decision much easier. But I think in many ways, this circumstance was unfortunate because it put us having to react to what the State of Minnesota was doing. And I actually think while this takes a long time,

the author, the Minnesota Office of Higher Education did an extraordinary job in this particular circumstance.

And I think as the case study indicated the triad actually worked in this circumstance. The one in Minnesota, the school that we accredited, the state took, made an action. They come the same day, put them on show cause. And so everything stopped. Their continuing status was based on a consent decree in further reviews. They are not able to offer the certificate program in between. All the state took that away is even an option for them as an authorization. So it is a challenging circumstance, and I do believe that this this kind of thing that comes to light will stimulate all of us to move forward and say, how can we deal with this issue for all of us? As far as state authorizing, and accreditors, and the department as well. Because, a lot of it was with the financial aid office. So I'll stop there.

Bob Shireman: So I guess, I'm a little bit concerned about the school remaining open. You think that if they...

Bob Shireman: ... The school remaining open. You'd think that if they, as Claude said, NACIQI probably never dealt with a heavier issue than this, and you think if there's anything that should prompt a death penalty for a school, it would be human trafficking. And yet instead, the owner of the school gets paid by somebody who takes over the school and is able to... I don't know what the price was, but without the accreditation... With the accreditation, the price is going to be higher than without the accreditation. And-

Arthur Keiser: Do you have a question, Bob?

Bob Shireman: Yes. So why not just kill the school?

Arthur Keiser: I think I already asked that, but...

Speaker 22: Yeah, and that's a decision that our commission makes, so I can't speak for the all seven commissioners. We do follow our policies and our procedures, and this is a very challenging circumstance all the way around, I think, for everybody and especially the students that are at that school and the faculty, the people that are employed by that school.

Arthur Keiser: Are there any other questions for the commission?

Claude Pressnell: Yeah, I have one. Yeah. And one, let me say, I appreciate the tension between protecting those students who are in legitimate programs by the institution that you're accrediting. But, man, this can't get any more difficult, for sure. And I do appreciate your pointing to the effectiveness of the triad. We've got the department side of that, I think that's Department of Education that's currently under review so we'll see what comes out of their review of this as a part of that

as well. But it's good that the state has a mighty large hammer in the sense that they can reject [crosstalk 06:27:15]

Arthur Keiser With a license.

Claude Pressnell: ... authorization, plus they have law enforcement, and you don't have that. Right? But you do have the ability to remove recognition from it. So I guess my question is, and part of this I'm just asking from your experience and I know that six months down the road, you may answer this differently, but what do you think should be, or is, the accreditor's exposure in something this grave and difficult?

Speaker 22: Let me make sure. You cut out a little bit on me, Claude, so let me just restate. I think your question [crosstalk 06:27:55] was, what is the predator's liability?

Claude Pressnell: Exposure. What do you think should be your exposure, an accreditor's exposure in light of something... When you have a member campus that gets involved in this type of activity, what do you consider to be the accreditor's exposure to this? Or maybe you don't think there is any, I don't know.

Speaker 22: Well, let me bring it back to, I think accreditors, at least our agency, and I believe as reviewers, you'd probably appreciate this. We live and die by our policies and our standards and our criteria. And so every decision that we make has to be rooted in either a standard, a criteria, or a policy; it has to be in print. And when we deviate from that circumstance and try and make a decision outside of it, that's when we get into trouble. Because then, as an accreditor, we're inconsistently applying our standards and the department's going to cite us for that. This is a challenging circumstance and, obviously, has a potential criminal liability involved. And the state let us know that... So this is not only as a Minnesota State Office of Higher Education, but it was referred to the Attorney General's office.

And so what they do with it, they're not going to tell us. So exposure or... I'm not sure that we have a direct, I forgot the term that you used. But the worst part of this, again, comes back to this reflects negatively, not only on that, on our agency, it reflects negatively on this profession. It reflects negatively on massage therapy profession. It reflects negatively on higher education. It reflects negatively on many aspects, all based on a single individual perpetrating a criminal act. Should we take responsibility for that person's decision? My understanding is that the state authorized the Chinese language component of Tuina in 2017. So it's not... That probably has not been going on the entire time. It might be more recent, but I don't know that. I'm just basing it on the approval that the state made. Does that-

Claude Pressnell: Thank you.

Speaker 22: ... address your...

Claude Pressnell: It does, yeah. It was a difficult question in many ways. [crosstalk 06:30:49] difficult circumstances, so I appreciate your response.

Arthur Keiser: Are there any other questions from the committee to the commission? If not, I will call... Oh. Oh, you know what, Steve? You're at the bottom. I don't know how I'm going to do that. You have a question, go ahead.

Steven VanAusdle: Well I'm sorry about that. I could hear and what a dilemma. Does the new owner, is the new owner, the one you're dealing with now, Mark, in terms of the accreditation status of this institution?

Mark McKenzie: Huh? I'm sorry. I didn't quite catch that.

Steven VanAusdle: Okay, let me try that again. You said the school sold, a new owner bought it?

Mark McKenzie: Correct.

Steven VanAusdle: And are you accrediting that new school the owner bought?

Mark McKenzie: Yes. Yeah, so there was an ownership change-

Steven VanAusdle: Right.

Mark McKenzie: ... and a name change.

Steven VanAusdle: Okay.

Mark McKenzie: The current school is accredited by ACAOM and they're up for review at our meeting next week.

Steven VanAusdle: So might you look at a show cause order on that school as soon as you can and tie that to any legal decision? So you're out front?

Mark McKenzie: Right. we did the show cause immediately and then when the state authorized a consent decree and approved the change in ownership, we subsequently also approved the change in ownership. But they have the new owner is... The institution is currently on probation with us and so they can't do anything new, basically. And with the pandemic, we have not done our onsite visit, which we're trying to schedule as soon as we get back.

Steven VanAusdle: So there's no more adverse action you could take right now other than closing.

Mark McKenzie: Well, for us, adverse action is termination, [crosstalk 06:32:59] termination, whatever. But we've got three levels, Steve, we've got typical monitoring. If there's a non-compliance, there's a monitoring process. We also have sanctions. The sanctions are, we can do a notice of concern, we can do a warning, or we can actually do probation, and those each have specific things that are

implicated. And then the next one is termination. So they're kind of three [crosstalk 06:33:28] different levels.

Steven VanAusdle: Keeping students in mind, protect them to the fullest extent possible, but it seems that new owner is an opportunistic guy that's taken advantage of a very-

Arthur Keiser: How do you know?

Steven VanAusdle: ... Cruddy situation and not very sympathetic.

Speaker 22: Yeah, I hear you.

Arthur Keiser: Okay. Bring back Mike Stein for any comments?

Speaker 22: I don't have any other comments at this time. Herman, do you have anything to add?

Arthur Keiser: Any questions for Mike?

Claude Pressnell: Yeah, I'd like to know, do we know the status of the department's review of this? Herman, do you know?

Herman Bounds: No. [crosstalk 06:34:16] This is Herman.

Arthur Keiser: I think he said they were sending some letter? [crosstalk 06:34:21] Claude, I think [crosstalk 06:34:25] he said they were sending-

Herman Bounds: Yeah, we are finalizing the [inaudible 06:34:27].

Arthur Keiser: We can't hear you, Herman. [inaudible 06:34:29]

Herman Bounds: Yeah, we are now finalizing the language in the letter. There are a couple of other areas that we're looking at, that we hope to get that letter out to ACAOM sometime next week.

Claude Pressnell: And does the letter address ACAOM's actions or just the institution's actions or both, or can you give us any idea as to what it might cover? I'm not asking you to tell us what it says, but...

Herman Bounds: The letter is more so related to institutional actions since the program itself wasn't accredited by ACAOM. The letter is totally keyed around ACAOM's actions relative to the institution.

Claude Pressnell: Okay, thank you.

Arthur Keiser: Hearing no more questions. Thank you, Mike. And we will move to a motion from either Bob or Claude.

Claude Pressnell: Boy, this is difficult.

Bob Shireman: This is a tough one.

Ronnie Booth: Claude-

Bob Shireman: I wonder if we can have a little public conversation here.

Arthur Keiser: Well I'd like to know... I'd first like to have a, I don't care what it is, the motion and a second, before we discuss it.

Claude Pressnell: Right, and I understand that.

Arthur Keiser: We can change it later.

Claude Pressnell: Yeah, I understand that. My [crosstalk 06:36:03]

Arthur Keiser: The staff is in front of you.

Claude Pressnell: I'm sorry?

Arthur Keiser: The staff recommendation's in front of you.

Claude Pressnell: Right. I know that, but I'm... So I wish we could make a motion with conditions, because in all honesty with you, I would move the staff recommendation with conditions on the department's letter in findings. Now, if I could get a little clarification again from George or Herman, if that letter comes out and it has something particularly related, directly related to ACAOM, I would like to know what that's going to do. You see what I'm saying? I feel like there's this-

Arthur Keiser: Claude?

Claude Pressnell: Yep.

Arthur Keiser: Remember this, the SDO won't make a decision right away and they will have the benefit of the letter, the benefit of the response of the commission. All we are doing is making a recommendation on the current information. And what I do want to point out is, we've had two major scandals, possibly even just as bad, if not worse, one at Penn state, one at Michigan, and neither time did we take the accreditor out, nor did we censor the accreditor because of the action of a school, and I think we need to be consistent.

Claude Pressnell: Yeah, I understand. Yeah, and it is my position, especially since the actions appear to have been taken place under a program for which they were not accredited. So I would move the staff recommendation.

Arthur Keiser: Is there a second? Jennifer, is that your hand up for a second?

Jennifer Blum: I'll second.

Arthur Keiser: Okay. The motion is made and second. Now we can have discussion on the motion. Steve, is your hand up or is that from before?

Speaker 22: And I think Herman's waving.

Arthur Keiser: That just happened. Herman?

Herman Bounds: Yes. I just wanted to point out-

Jennifer Blum: Oh, shit.

Herman Bounds: I wanted to point out the clause that the procedures under 602.33 are pretty specific. The letter that's going out is what we call an initial inquiry. So we're going to be asking for information. Once we get that information back, then we will evaluate that in a course of evaluation. Then we would take the next steps, if necessary. And then if we thought there was something really egregious or we found them to be noncompliant, then 602.33, the steps in there would require us to finalize a draft report. They would get 90 days to respond. We'd have to publish a Federal Register notice to get them back before NACIQI. So 602.33 is a long process and we're basically just in the beginning paragraphs of what's required under 602.33. So I hope that helps you, Claude.

Claude Pressnell: That helps me significantly because what it does say is that, regardless of what we do today, that there's a process in place and moving forward that could interrupt this process, this decision at any point. And so that gives me even greater comfort for the motion. So thank you.

Arthur Keiser: Okay. I see... Bob, is your hand up or is that just-

Bob Shireman: Yes, thank you.

Arthur Keiser: Well, you don't... You're the motion maker or the primary reader. Go ahead.

Bob Shireman: Yeah, I agree with Claude on the goal. I want action to be able to be taken as quickly as is called for based on what is learned. The agency has told us that there is a meeting next week, and it seems like the SDO having access to the information about what happens next week would be useful. However, and this is a question for our lawyers, my understanding is that the SDO cannot take into consideration, for the purposes of this renewal, cannot take into consideration information that was not a part of the record, whatever the record is.

However, my understanding is that if we, as NACIQI, raise an issue in our motion that is on a criterion that the staff had not raised, then at that point, or, then there is a 10-day period when both the agency and the staff can provide more and new information to the SDO. So it seems worth... If that is the case, and I

appreciate the lawyers on that, it seems useful for us to alter, to add, for example, 602.20 to our recommendation so that that 10-day period could be triggered and more information could be provided to the SDOs. So I'll suggest that as a friendly amendment, actually, and see whether that's okay.

Mary Ellen Petrisko: I'm not sure I understand the core proposed friendly amendment.

Bob Shireman: So including 34 CFR 602.20 after, probably I guess, the word compliance report.

Herman Bounds: Bob, there's another provision that does allow the SDO to consider other information and that is under 602.36 under the Senior Department Official. If you look under H, it says that relevant and material information pertaining to an agency's compliance with the recognition criteria but not contained in the record, comes to the Senior Department Official's decision while the decision regarding agency's recognition is pending for the SDO, but it goes on to talk about the SDO, then, has some other options. So it's not that he can't consider other information.

Bob Shireman: I guess my question's whether the agency has the opportunity to provide information as well as the staff. Is that the case or not?

Herman Bounds: The agency can respond to that. They have that 10-day period if they want to, but he's... I didn't want to get into that, I just wanted to make the point that-

Bob Shireman: Okay, I get it.

Herman Bounds: ... The SDO can consider other...

Bob Shireman: Thanks.

Herman Bounds: Yeah. And I know what you're talking about there, I just wanted to point out the other area.

Bob Shireman: Thank you. So that might... My friendly amendment suggested is to add including 602.20 so that all options are open. [inaudible 06:43:47]

Arthur Keiser: I'm sorry, Bob, what is that in reference to? What is 602.20?

Bob Shireman: I think that's the enforcement criterion.

Arthur Keiser: Okay. That's a... You're one of the... [crosstalk 06:44:10] You made the motion. Who was the second? Who was the second?

Jennifer Blum: I'm the second.

Claude Pressnell: Yeah, Jennifer made the second. I guess my [crosstalk 06:44:25] I'm convinced from the accreditor that the program under suspicion, that it was not a program that they had oversight over. There was [crosstalk 06:44:37].

Arthur Keiser: You don't accept the friendly amendment? You don't accept a friendly amendment?

Claude Pressnell: I would prefer a vote on it.

Arthur Keiser: Okay. That solves that problem. Bob, do you want to advance the amendment? Is there a second to the amendment?

Bob Shireman: I'm not proposing it as an amendment.

Arthur Keiser: You're not. Okay. Okay, thank you. Any other discussion? Again, I really think one of the things, when we talk tomorrow at the policy meeting, we talk about consistency because I can't see how Penn State can get away with... And they were legally held responsible and the accreditor didn't pull their recognition, so we're looking at... It might be the scope is different, but we need to be consistent in how we look at processes. Jennifer, you have your hand up?

Jennifer Blum: Yeah, I want to just echo you, Art, by saying it's not just Penn State. I did some Googling around on sex trafficking.

Arthur Keiser: Michigan was terrible. [crosstalk 06:45:44] Yeah, Michigan.

Jennifer Blum: Yeah, so unless we're going to start holding accreditors accountable for admissions scandals, fraternity issues, sex trafficking, I think that we have to... And I think that Mike actually said this when he was speaking, I think this was an example actually, where the triad is, it might be going a little slowly, but the triad actually is working. So, and I hold the... Not to be frank about it, but I hold the department most accountable, because of Title IV, to make sure that the enforcement piece of this gets handled quickly. And they have all sorts of authority even outside of accreditation with the LS&Ts for an institution, so I'm very comfortable with this motion and I hate the idea of the precedent that this would set if we did anything other than approve this.

Arthur Keiser: Okay. Robert?

Robert Mayes: I was just thinking if staying within the bounds of the regulations and the issue, that if you wanted to... If the committee wanted a little bit more in the motion, it would probably be around, did the accreditor make a good decision with approving a sale? Which I know was related to the state agency's action. Or should they have made a decision to remove accreditation? Which Art, I think you brought this up initially in your question. And I guess that come... I think I've seen that in past reports, that comes under competency of representatives, I believe, or something. Has the accreditors taken appropriate action? So that's

the only part where I see... Looking at the confines of what the accreditor's role is, which is a peer review agency, that's where maybe an issue was.

Arthur Keiser: Joe? Oh, Joe, you took your hand down. Claude?

Claude Pressnell: Yeah, just to respond to that. I would have more discomfort if the department's not currently under... We've got the process moving for a very comprehensive review of this, so that's where I'm comfortable with leaving it as it is. So at this... I'm going to call the question on the motion.

Arthur Keiser: Seeing that there are no other hands up, I will accept your motion to call the question. We'll go down the list. The recommendation is listed above us without the suggested amendment. And we start with Kathleen, vote?

Kathleen Alioto: Abstain.

Arthur Keiser: Roslyn?

Roslyn Clark Artis: Yes.

Arthur Keiser: Jennifer?

Jennifer Blum: Yes.

Arthur Keiser: Ronnie.

Ronnie Booth: Yes.

Arthur Keiser: Wally?

Wallace Boston: Yes.

Arthur Keiser: Jill. Jill. She's in Nevada, that's why we can't hear her.

Jill Derby: Abstain.

Arthur Keiser: Okay. David?

David Eubanks: Yes.

Arthur Keiser: Molly?

Molly Hall-Martin: Abstain.

Arthur Keiser: Paul? Paul?

David Eubanks: Did he have to leave?

Arthur Keiser: Oh, he did. Robert?

Robert Mayes: Yes.

Arthur Keiser: Mary Ellen?

Mary Ellen Petrisko: Yes.

Arthur Keiser: Claude?

Claude Pressnell: Yes.

Arthur Keiser: Bob?

Bob Shireman: Abstain.

Arthur Keiser: Steve?

Steven VanAusdle: Abstain.

Arthur Keiser: Okay. Motion passes. I thank the accrediting commission and I wish you the best in working this out, it's a very challenging situation. Okay. We are at 10 of 4:00. We have two choices. Three choices, actually. The first choice is we can call it a day, the second, we could have the Osteopathic Commission come before us, or the third, we could have our policy discussion now and do that in no more than 10 minutes. So does anybody have strong feelings?

Mary Ellen Petrisko: I think we ought not to have the policy decision now. I think we're a little tired and I think Paul just left. We might lose others. I think we want to bring a quick line to that.

Arthur Keiser: Okay, so you don't want to have that now.

Mary Ellen Petrisko: No policy decision discussion now.

Arthur Keiser: Okay. Do we want to... Anybody else feel strongly about that?

Kathleen Alioto: I would love to have it now because tomorrow morning is going to be difficult for me.

Arthur Keiser: Okay, well we're equally split right now, one to one. Any strong feelings about that?

Bob Shireman: I'm good with now or tomorrow [crosstalk 06:50:30].

Arthur Keiser: What was that? I'm sorry.

Bob Shireman: I'm good with whatever you want to do. [crosstalk 06:50:37]

Arthur Keiser: Do the readers of the Osteopathic Commission... Do you think that's going to take us more than an hour and 10 minutes?

Bob Shireman: I think it probably will.

Arthur Keiser: That's Wally.

Bob Shireman: Also, you actually said earlier that it would not be today.

Arthur Keiser: No, I did not. I did not. And we've already talked to them that they would be there as they, when they try the guy and [crosstalk 06:51:01] they think they got-

Bob Shireman: Right. But, whatever Wally says.

Wallace Boston: I think I would prefer to wait till tomorrow. If you've looked at all the details, there's a lot of criteria that were initially not met, subsequently are all met. But I anticipate that there could be a lot of discussion on that, so I would prefer to not chance it because I think the odds are that we could run over.

Arthur Keiser: Mary Ellen, you had your hand up.

Mary Ellen Petrisko: Yeah. I think it would make sense to have gone through all of the reviews before we have the policy discussion, because who knows what will come up in the next discussion?

Arthur Keiser: Okay-

Mary Ellen Petrisko: And I think coming at that with a fresh mind tomorrow...

Arthur Keiser: Bob?

Bob Shireman: Great, tomorrow.

Arthur Keiser: Well, I think we have consensus unless there's somebody who wants to really stand out and say no. I think it's nice that we can go home to our families and relax and finish tomorrow, hopefully before noon. I'd like to see it. I hope our policy discussion does not take six years, so I may even put a cap on it so we will get it done, but we'll talk about that tomorrow. Okay, have a great day. I really appreciate the work today. You did a great job and I think the discussions are important and I think, everybody, it's really important that we have them. Thank you and then we'll see you tomorrow morning.